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President: Mr. D'Escoto Brockmann (Nicaragua)

The meeting was called to order at 10.10 a.m.

Agenda item 19

Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba

Report of the Secretary-General (A/63/93)

Draft resolution (A/63/L.4)

Mr. Ashe (Antigua and Barbuda): It is an honour for me to speak on behalf of the Group of 77 and China in the General Assembly on agenda item 19, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

The heads of State and Government of the Group of 77 and China have repeatedly condemned the use of economic coercive measures designed to prevent countries from exercising their right to decide their own political, economic and social systems, and have called on all countries not to recognize unilateral extraterritorial laws enacted that have imposed sanctions on other States and foreign companies.

Our heads of State and Government have also recognized that the embargo has caused and continues to cause a high degree of economic and financial damage, which has had a negative impact on the welfare and well-being of the people of Cuba. The Group reiterates its call upon the Government of the United States to put an end to the embargo.

The promulgation of such acts not only undermines the principles enshrined in the Charter of the United Nations and international law, but also severely threatens freedom of trade and investment. The Group urges the United States to effect change in its dealings with the Republic of Cuba in a meaningful way by ending the embargo.

The Group is committed to working towards a better world for all in which nations, large and small, coexist peacefully. The achievement of such peaceful coexistence among nations requires adherence by all nations to the rule of law, including international law.

The embargo against Cuba contravenes the fundamental norms of international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States. Its continued imposition violates the principles of the sovereign equality of States and of non-intervention and non-interference in each other's domestic affairs.

We believe that the replacement of the embargo with diplomatic dialogue and cooperation will promote meaningful exchange and partnership between countries whose destinies are linked by history and geography.

Considering the impact that the embargo has had on everyday life of the Cuban people, the overwhelming majority of Member States are here today in support of the draft resolution on the necessity of ending it. The Group of 77 and China will again support the draft resolution before us today and would

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urge all Member States in good conscience to join us in that endeavour.

The President (*spoke in Spanish*): Before giving the floor to the next speaker, I would like to propose that the list of speakers for the debate on this item be closed.

It was so decided.

Mr. Abdelaziz (Egypt): I have the honour to speak today on behalf of the 118 States Members of the United Nations that are members of the Non-Aligned Movement.

The Non-Aligned Movement renews its commitment to defending, preserving and promoting the Charter of the United Nations and international law. We refrain from recognizing, adopting or implementing extraterritorial or unilateral coercive measures or laws, including unilateral economic sanctions, other intimidating measures and arbitrary travel restrictions that seek to exert pressure on non-aligned countries, threatening their sovereignty, independence and freedom of trade and investment, and that prevent them from exercising their right to decide, by their own free will, their own political, economic and social systems.

Such measures or laws constitute flagrant violations of the Charter of the United Nations, international law and the multilateral trading system, as well as the norms and principles governing friendly relations among States. In that regard, the Non-Aligned Movement opposes and condemns such measures or laws and their continued application. The Movement is also persevering in its efforts to effectively reverse them and urges other States to do likewise, as called for by the General Assembly and other United Nations organs. Once again, the Movement requests States applying such measures or laws to revoke them fully and immediately.

The Non-Aligned Movement reaffirms that under no circumstances should people be deprived of their own means of subsistence and development. The Non-Aligned Movement further expresses its concern at the continued imposition of such measures, which inhibit the well-being of the population of the affected countries and create obstacles to the full realization of their human rights. In accordance with international law, the Movement supports the claim of affected States, including the targeted States, for compensation for the damage incurred as a consequence of the

implementation of extraterritorial or unilateral coercive measures or laws.

As reaffirmed by the heads of State and Government of the Non-Aligned Movement at their Summit Conference held in Havana in September 2006, we once again call upon the Government of the United States of America to put an end to the economic, commercial and financial embargo against Cuba, which, in addition to being unilateral and contrary to the United Nations Charter, international law and the principle of good-neighbourliness, is causing huge material losses and economic damage to the people of Cuba.

The Non-Aligned Movement reiterates its deep concern over the widening of the extraterritorial nature of the embargo against Cuba and rejects the reinforcement of the measures adopted by the United States Government aimed at tightening the embargo and all other recent measures carried out by the Government of the United States against the people of Cuba. The Movement reiterates that those measures constitute a violation of Cuba's sovereignty and a massive violation of the human rights of its people.

In conclusion, the Non-Aligned Movement once again urges strict compliance with resolutions 47/19, 48/16, 49/9, 50/10, 51/17, 52/10, 53/4, 54/21, 55/20, 56/9, 57/11, 58/7, 59/11, 60/12, 61/11 and 62/3, on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba.

Allow me to say a few words, before closing, about my dear friend and colleague, Ambassador Rodrigo Malmierca Díaz, the Permanent Representative of Cuba to the United Nations, who will be leaving us at the end of this week. I would like to express my appreciation as a member of the Non-Aligned Movement Troika and the appreciation of all the members of the Movement for his extensive efforts and for his able leadership as Chair of the Movement over the past two years. I wish him all the best in his future endeavours.

Mr. Talbot (Guyana): On behalf of the 14 States members of the Caribbean Community (CARICOM) that are Members of the United Nations, I have the honour to address the General Assembly on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba.

CARICOM aligns itself with the statement made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and the representative of Egypt on behalf of the Non-Aligned Movement.

At the outset, CARICOM would like to express its concern and solidarity with the people of Cuba as they struggle to rebuild in the aftermath of Hurricanes Gustav, Hanna and Ike, which battered the island and our region in quick succession. Indeed, it is in these times of natural disaster and national crisis that the fundamental unjustness of the embargo is brought into sharpest relief. Cuba's safety, advance preparedness and pace of recovery are compromised by the embargo's many direct and indirect effects. When viewed in the light of Cuba's own sacrifice and selfless assistance to other States in times of crisis, such an embargo seems particularly ill conceived.

The punitive embargo is of particular concern to CARICOM, which shares a history, culture and brotherhood with the people of Cuba. Cuba is the most populous State of the Caribbean region and an integral part of the pan-Caribbean process. Caribbean ties with Cuba have historical significance, cemented by years of active cooperation at various levels. The member States of CARICOM continue to maintain close relations with Cuba through a wide range of programmes of cooperation in areas including trade, health care, infrastructure and human resource development. Our future regional development is, in many ways, reliant upon our collective advancement and progress. In that context, we view the embargo not just as a punitive act against Cuba, but as an impediment to our shared regional development.

This year's report of the Secretary-General on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba (A/63/93), as previous reports on the matter, outlines responses from an overwhelming majority of Member States that share a common perspective on the continued unilateral embargo against Cuba.

CARICOM member States continue to reiterate their unequivocal opposition to the imposition of the embargo, which has been repudiated by the overwhelming majority of the international community for the past 16 consecutive years. The unilateral imposition of extraterritorial laws on third States is contrary to both the letter and the spirit of the United

Nations Charter, and the embargo itself runs counter to the principles of multilateralism, international law, sovereignty and free trade that this body traditionally champions.

CARICOM States therefore reaffirm the positions of the Group of 77 and China and the Non-Aligned Movement in opposing such unilateral actions, and we maintain the position that constructive engagement and peaceful negotiations remain the only acceptable means for advancing long-term peace and stability.

The significant effect of the embargo on the Cuban economy continues to be of great concern to CARICOM, and the humanitarian impact on the people of Cuba, especially in the area of health care and food, is saddening. The inability of Cuba to acquire necessary medical equipment, spare parts and latest-generation medicines because of the embargo continues to affect the health-care system, where treatment remains free of charge to the Cuban people.

With the strengthened and more frequent storms and hurricanes brought on by climate change and Cuba's geographic susceptibility to those natural disasters, the unacceptable humanitarian impact of the embargo becomes even more acute. It is remarkable that, even as Cuba struggles with its recent unfortunate string of natural disasters, it continues to assist other nations in the developing world, starting with its immediate Caribbean neighbours. Thousands of CARICOM students have attended Cuban universities without charge, thousands have received free surgical operations and medical assistance in Cuba, and thousands more have been treated in their home countries by Cuban doctors and nurses. We have benefited from technical expertise, capacity-building programmes, infrastructural assistance and the selfless generosity of the Cuban people. The people of Cuba have threatened no one, and neither the embargo nor its deleterious side effects have prevented them from continually extending a hand of friendship and solidarity, even across ideological divides.

Given Cuba's peaceful, generous and cooperative international stance, it should not be isolated or excluded from participation in regional and hemispheric processes. CARICOM reiterates its unwavering support for the right of the Cuban people to self-determination and to the beneficial pursuit of their social and economic development in a manner of their own choosing.

The embargo imposed against Cuba is increasingly anachronistic and serves no useful purpose in the twenty-first century. It has only served to preserve a state of tension between two neighbouring countries and to generate concern, disquiet and discomfort throughout the Caribbean.

CARICOM States continue to enjoy friendly relations with both Cuba and the United States. Those two neighbours, a mere 90 miles apart, have produced great scholars, scientists and global leaders. The two countries possess proud and noble histories and are populated by friendly, open and loving peoples. We call for a new beginning between the Governments of those two great nations — one large and one small — akin to similar initiatives taken for negotiation of far more difficult issues of international relations between States Members of this Organization. We can only imagine the positive outcome of a rapprochement between them based on the purposes and principles of the United Nations Charter.

It is against that background that CARICOM States support the draft resolution on the necessity of ending the economic, commercial and financial embargo by the United States, contained in document A/63/L.4.

Mr. Valero Briceño (Bolivarian Republic of Venezuela) (*spoke in Spanish*): Mr. President, it is an honour to speak for the first time in this forum under your leadership.

Last October, 184 Member States, in this forum, voted in favour of draft resolution A/62/L.1, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" — a nearly unanimous rejection by the international community of the interventionist policy against the fraternal people of Cuba.

Ever since its first resolution on this topic, resolution 47/19, was adopted, on 24 November 1992, the Assembly has been adopting systematically, and by an overwhelming majority resolutions that demand that the Government of the United States of America put an end to its hostile policy against Cuba. The United States Government, however, has repeatedly disdained the majority will of the General Assembly and has refused to hear the clamour throughout the world against the embargo. That is one of the many reasons that amply justify the pressing need to reform the United Nations so that the resolutions of this Assembly are welcomed and respected by all States.

The enduring embargo against Cuba runs counter to the spirit of our times. It is an obstacle to the creation of an international order based on peace and coexistence among all nations. The embargo is undeniably a criminal mechanism that is designed to crush, through hunger and disease, a dignified people that has bravely and with determination exercised its right to freedom and independence. For more than four decades, the imperialist Government has been flagrantly violating the human rights of the Cuban people, including the right to life, health, food and education. It has been violating the norms and principles of international law that govern relations among States, as well as the letter and the spirit of the Charter of the United Nations.

Over the past year, the embargo against Cuba has intensified and its extraterritorial implementation has expanded. To deny medicine and food to a country in the context of an odious sanctions regime is a violation of international law and is proscribed in the Convention on the Prevention and Punishment of the Crime of Genocide.

Mohandas Gandhi, in his work "Non-Violence: The Greatest Force", set out his thinking, which is as relevant now as it was then. The great herald of peace and permanent leader of the people of India said:

"An armed conflict between nations horrifies us. But the economic war is no better than an armed conflict. This is like a surgical operation. An economic war is prolonged torture."

The economic, commercial and financial embargo against Cuba is a criminal punishment imposed systematically on the Cuban people with no distinction as to age, sex, religion or social status. In the context of the devastating human toll and material damage caused by hurricanes Gustav and Ike, the implications of the embargo take on more unjust and immoral connotations. Despite the embargo, the people of Cuba and their Government, faithful to the principles of solidarity and humanism, have maintained cooperation and solidarity with many developing countries, including my own, particularly in the areas of education and health.

The embargo against Cuba is rejected not only by the Cuban people, but also by a majority of world public opinion, including within the United States. To this effect, we welcome constructive rapprochement and positive dialogue which the European Union has

initiated with no conditions of any type and with respect for the sovereignty of the Cuban people. We therefore appeal for the embargo against Cuba to be lifted immediately and unconditionally.

The Bolivarian Republic of Venezuela firmly rejects the unilateral implementation of economic, commercial and financial measures against Cuba that affect the development of international trade and that constitute an offensive extraterritorial application of one country's domestic legislation against another.

We reiterate our support for the General Assembly resolutions that call for an end to the embargo against Cuba. We support, in that context, the positions of the Group of 77 and China and of the Non-Aligned Movement and the statement soon to be delivered by the Common Market of the South (MERCOSUR), all of which condemn the embargo on Cuba, as it is in violation of the provisions of the United Nations Charter.

We hope that, on this occasion, the overwhelming majority of countries will once again raise their voices against a measure that is an affront to a people that has since 1958 been flying with dignity the flags of freedom, sovereignty and self-determination.

Venezuela will therefore vote in favour of the draft resolution entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

Mr. Heller (Mexico) (*spoke in Spanish*): For 17 consecutive years, the Government of Mexico has, in this forum, expressed its rejection of the economic, commercial and financial embargo against Cuba, and today it once again reiterates its opposition to the use of coercive actions not supported by the Charter of the United Nations.

Therefore, since 1992, when the Cuban Government submitted a draft resolution to the General Assembly to put an end to the embargo imposed by the Government of the United States of America, Mexico has repeatedly voted in favour of the resolutions adopted by the General Assembly on the matter. My Government has also shared with the international community its firm opposition to the extraterritorial application of national laws that contravene international law.

The Government of Mexico has maintained that position in the various agencies of the United Nations,

system supported by the fact that the United States embargo against Cuba, a unilateral policy that has lasted for almost half a century, contravenes international law and the Charter of the United Nations, has severe humanitarian consequences that are in open contradiction to its founding objectives and furthermore constitutes a renunciation of diplomacy and dialogue as ideal ways to resolve conflicts between States.

For all those reasons, my delegation reiterates its firm opposition to the economic, commercial and financial embargo against Cuba, which has affected its population in a silent, systematic and cumulative manner.

The overwhelming outcry of the international community against this sort of unilateral action reminds us that any kind of political, economic or military sanctions imposed upon States can derive only from decisions or recommendations of the Security Council or the General Assembly of the United Nations.

Several agencies and entities of the United Nations system address the negative impact that the embargo has on the economic and social development of Cuba. The resulting destruction tangibly affects the economic, commercial and financial transactions of the country and has negative repercussions on sensitive sectors such as food, health and construction, all of which have a direct impact on the lives of the Cuban people.

All of those effects not only have repercussions for third countries, since they cannot interact with Cuba in many economic and social activities, but also are aggravated in the context of natural disasters such as the highly destructive storms that occurred this year, hurricanes Gustav and Ike.

The Government of Mexico reiterates its firm position against national laws that are imposed on other countries and violate international law.

In that context, and in order to counteract the economic, political and diplomatic isolation of Cuba, the Government of Mexico has supported Cuba's integration into all the regional integration mechanisms, thus promoting economic and commercial exchanges, cooperation and development. On 23 October 1996, the Mexican State passed the Law on the Protection of Commerce and Investments from Foreign Policies that

Contravene International Law. The law prohibits any acts that affect commerce or investment if those acts are a result of the extraterritorial application of the laws of foreign countries.

At the bilateral level, Mexico is also promoting political, economic and commercial contacts with Cuba. An example of that is the third meeting of the Cuba-Mexico Permanent Mechanism for Information and Political Consultation, held in March 2008, in which both Governments committed themselves to promoting existing bilateral mechanisms in the areas of migration, drug trafficking, commerce and industrial development, shipping, agriculture and fishing, foreign trade, tourism, health and development. The meeting was also instrumental in establishing mechanisms to promote economic relations through the dispatching of business missions and the revision of agreements on economic complementarity and the promotion and reciprocal protection of investments between the two countries.

By focusing on dialogue and consultation, Mexico and Cuba have managed to strengthen their ties of cooperation and understanding. That has led to a relationship based on mutual respect, as evidenced by the signing of an agreement on restructuring Cuba's debts to Mexico in March 2008. The agreement was appended to the existing regulatory framework of each country and mutually satisfactory to both parties, helping to stimulate the development of economic and trade relations benefiting the two countries.

In that context, we should also mention the signing of the memorandum of understanding between Mexico and Cuba to secure legal, orderly and safe migratory flows between both countries. The memorandum was signed during a visit by the Minister for Foreign Affairs of Cuba, Felipe Pérez Roque, to Mexico City on 20 October. It will help to ensure migrants' safety, discourage undocumented migration and combat more effectively the trafficking in persons.

That relationship, which is based on mutual respect, was indeed validated through Foreign Minister Pérez Roque's visit to Mexico City only a few days ago. During his meeting with President Felipe Calderón, both noted the positive state of relations between the two countries. Besides being reflected in the structure of the bilateral institutional mechanisms, that relationship is furthered by the increase in bilateral trade, which shows great promise. During the first

eight months of this year, bilateral trade increased by nearly 80 per cent as compared to the same period in 2007. That reinforces the firm historical ties between Mexico and Cuba, which are sustained in a climate of renewed confidence, taking into consideration the purposes and principles enshrined in the Charter of the United Nations.

On that basis, through bilateral dialogue and in the relevant regional and international forums and mechanisms, Mexico has promoted opportunities for cooperation and respectful dialogue, as demonstrated recently through the first ministerial-level political dialogue between the Rio Group and Cuba, held at the beginning of the current session of the General Assembly. During that dialogue, both sides stressed their interest in discussing relevant topics on the regional and international agenda.

The Government of Mexico bases its bilateral and multilateral relationships on the general principles of international law that regulate peaceful and civilized coexistence among sovereign States. Those principles have retained their solidity and continuity in the relations between Mexico and Cuba. Mexico reaffirms today that international law is the mechanism for resolving disputes between States and that observing it and respecting the rules and principles that govern coexistence among nations, as well as respectful dialogue, irrespective of asymmetries or differences, are the necessary instruments for overcoming differences among States and securing a climate of international peace.

From our own experience, we know well that societies evolve and change according to their own circumstances and not as the result of arbitrary measures imposed from outside. In virtue of all those considerations, Mexico will once again support the resolution that has been presented under the item at this session.

Mr. Le Luong Minh (Viet Nam): For 16 consecutive years the General Assembly has debated the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba. The Assembly is meeting again today to discuss the same issue because despite the strong appeal of the international community for it to end, the economic, commercial and financial embargo imposed by the United States against Cuba continues.

The resolutions on the necessity of ending the economic, commercial and financial embargo imposed by the United States against Cuba which the Assembly has adopted with near unanimity, have never been implemented. We fully align ourselves with the statements made by the delegates of Antigua and Barbuda and of Egypt on behalf of the Group of 77 and China and the Non-Aligned Movement, respectively, in that connection.

The United States' unilateral economic, commercial and financial embargo against Cuba represents a violation of international law, including international laws relating to the freedom of trade and navigation and non-interference in the internal affairs of States. It runs counter to universally recognized norms governing relations between sovereign countries regardless of their political systems and their choice of a path of development and to the fundamental principles, purposes and spirit enshrined in the Charter of the United Nations.

The prolonged and intensified embargo imposed by the United States against Cuba has caused serious economic and trade damage worth scores of billions of United States dollars not only to Cuba, but also to other countries desirous of conducting their normal and mutually beneficial economic, financial and trade relations with that peace-loving country. It has inflicted tremendous hardship and suffering on the Cuban people, particularly women and children. While the Government and people of Cuba strive to achieve the Millennium Development Goals, that unjustifiable unilateral embargo affects their efforts to accomplish the very goals that leaders of the world adopted at this Assembly eight years ago.

Viet Nam is against the imposition of any coercive, unilateral and extraterritorial economic, commercial or trade embargo by one country against another. We believe that disputes among States should and can be resolved through peaceful dialogue and negotiations on the basis of equality, mutual respect for each other's independence and sovereignty, and the principle of non-interference in the internal affairs of States. We demand that the United States put an end to the unilateral embargo against Cuba, the continuation of which serves no other purpose than to intensify tension between the two neighbouring countries and in the region and is a disservice to regional and international peace and security and the interests of friendly relations among peoples.

Viet Nam reaffirms its support for and solidarity with the Government and people of Cuba. We will join the efforts of the international community to help them overcome the consequences of the embargo. Viet Nam will again vote in favour of the draft resolution.

Mr. Mohamad (Sudan) (*spoke in Arabic*): My delegation would like to extend to you, Sir, our warmest thanks and appreciation and to applaud your wise leadership of the proceedings of the current session of the General Assembly. We greatly appreciate your efforts to spread the spirit of fraternity, equality, justice, cooperation and respect for peoples to choose and to reject hegemony and the law of force.

For the seventeenth consecutive year, an item on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba is on the agenda of the General Assembly. Throughout those years, the Assembly, by adopting the draft resolutions presented to it, has demonstrated its complete rejection of those unilateral sanctions and their extraterritorial negative effects that run counter to the principles of international legitimacy.

The General Assembly is once again considering the item amid an increasing awareness on the part of the international community and its rejection of the dangerous and unjustifiable imposition of the sanctions. The continuous support for the resolution — year in and year out — explicitly demonstrates the rejection by the international community of the unilateral imposition of the embargo on Cuba, due to its blatant violation of the basic rules and principles of international law, the provisions of the United Nations Charter and the international instruments and norms governing commercial, economic and financial relations among States.

The long suffering of the Cuban people as a result of the embargo serves as an appeal to the international community to take a stand once again this year against those unjust sanctions that threaten international legitimacy. Those unilateral measures have had a severe impact on the Cuban people, depriving them of basic necessities and causing considerable losses in the various fields of economic and social development to the brotherly Republic of Cuba for over 40 years. My delegation takes a firm stand against those unjust unilateral sanctions, which have also been imposed on my country and on other countries. We wish here to

express our full solidarity with Cuba and against the policies of exclusion and the imposition of hegemony on other people.

We are confident that the overwhelming vote of the General Assembly will support the desire of the international community to achieve the noble humanitarian principles contained in the Charter. The draft resolution under consideration serves in its symbolic value as an important message from the international community, rejecting the folly of force.

Mr. Kumalo (South Africa): May I begin by associating my delegation with the statements delivered by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and by the representative of Egypt on behalf of the Non-Aligned Movement.

On New Year's Eve 2009, we will mark the fiftieth anniversary of the Cuban revolution. In honour of that day we must pay tribute to former President Fidel Castro, who led the revolution for the self-determination of the Cuban people. Yet three years after the Cuban victory led by Comandante Fidel, Cuba was hit with a unilateral economic, commercial and financial embargo imposed on it by its neighbour, the United States of America. That means that the majority of Cuban citizens have known no other life than a life under coercive economic measures. But despite everything, the Cuban people have survived. For that reason we begin today by welcoming the Minister for Foreign Affairs of Cuba, whose presence at the debate is an indication of the importance we all attach to the issue.

Throughout the unilateral embargo, which has lasted over 48 years, the Cuban people have responded by extending a hand of friendship and solidarity to other people around the world. For instance, it is not unusual to find Cuban doctors and Cuban nurses in many parts of Latin America and Africa. Cuba's outstanding work in the areas of health, education and biotechnology is recognized by the international community. Also, through its bilateral cooperation projects, Cuba is greatly assisting many developing countries — including mine — in addressing skills shortages by deploying Cuban professional workers and trainers in a myriad of areas.

Perhaps more importantly, Cuba has supported the struggles for freedom and justice around the world. For instance, in Southern Africa we have recognized

Cuba's contribution to our own freedom and democracy in our subregion. The role that Cuba played in South Africa's own liberation history was duly recognized this year when Southern Africa celebrated the twentieth anniversary of the battle of Cuito Cuanavale, which was a decisive turning point in the struggle against apartheid and led to the independence of Namibia and South Africa.

South Africa has consistently opposed all aspects of the embargo imposed by the United States of America against Cuba for fundamental reasons that go beyond the solidarity we share with the Cuban people. South Africa is a country committed to working towards a better world for all in which all nations, no matter how large or small, coexist peacefully. The achievement of such peaceful coexistence among nations requires adherence by all nations to the rule of law, including international law and respect for territorial integrity.

South Africa views the continued imposition of an economic, commercial and financial embargo as a violation of the principles of the sovereign equality of States and of non-intervention and non-interference in one other's domestic affairs. South Africa has therefore repeatedly joined the vast majority of Member States and countries in expressing its disagreement and its opposition to all aspects of the economic, commercial and financial embargo imposed by the United States of America against Cuba.

We are guided by the basic norms of international law and conduct and our principled support for the need to eliminate coercive economic measures as a means of achieving political and economic goals. South Africa believes that constructive dialogue can foster mutual trust and understanding and can engender harmony and peaceful coexistence between nations.

My delegation believes that the presence of such a large number of Member States in this Hall today and their participation in the deliberations are indications of their opposition to unilateral extraterritorial measures. We are here to express our firm opposition to coercive economic measures as a means of exerting pressure on developing countries, as such measures are contrary to international law, international humanitarian law, the United Nations Charter and the norms and principles governing peaceful relations among States.

South Africa will join the majority in the Assembly this morning in supporting the draft resolution before us. We do so because this relentless and unilateral action has caused untold suffering to the people of Cuba. We believe that the overwhelming majority of Member States present today will join us in support for the Cuban people. It is a clear indication that the time has come for the embargo to be lifted, thereby ending the untold suffering of the Cuban civilian population, who are bearing the brunt of this injustice.

Finally, Mr. President, with your permission, since I will not be able to join the celebrations in Havana on New Year's Day, allow me to just say "Viva Cuba! Viva Comandante Fidel!"

Mr. Liu Zhenmin (China) (*spoke in Chinese*): The Chinese delegation supports the statement made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China.

For more than 10 years, the Cuban delegation has denounced each and every year from the podium of the General Assembly the sustained economic, commercial and financial embargo against Cuba, which has had serious consequences for its social, economic and environmental development. The embargo has had an extensive impact on Cuba, especially in compromising the right to the survival and development of the most vulnerable groups in Cuba, such as women and children, and has gained broad sympathy and attention.

For 16 consecutive years, the General Assembly has each year adopted a resolution by an overwhelming majority, urging all countries to comply with the Charter of the United Nations and the principles of international law by repealing or invalidating all laws and measures with extraterritorial effects that compromise the sovereignty of other States and undermine the legitimate rights and interests of entities and individuals under the jurisdictions of those countries and affect the freedom of trade and navigation. Regrettably, however, the long-term economic, commercial and financial embargo against Cuba imposed by its rich neighbour is still in place.

In today's world, although international relations are not yet democratized, dialogue, communication and harmonious coexistence have emerged as the mainstream of international relations. Mutual respect and equality among countries are becoming important issues of international consensus. In the age of

economic globalization, exchanges and cooperation among countries on an equal footing represent the trend of our times. Dialogue on an equal footing and friendly consultation are the best way to resolve any differences and disputes. The international community has the right to raise serious concerns over the embargo and sanctions suffered by Cuba over the years and to request the country concerned to end the embargo and sanctions.

The embargo and sanctions against Cuba not only harm the interests of Cuba and many other countries, but also run counter to the principles of democracy, freedom, the rule of law and human rights. First, the practice of attempting to force another country, through embargo and sanctions, to give up its right to independently choose its own path of development and even to overthrow its Government constitutes a serious violation of the purposes and principles of the Charter and the basic norms governing contemporary international relations. Such practice has nothing to do with promoting democracy and freedom.

Secondly, the embargo and sanctions imposed against Cuba are extraterritorial in nature and therefore in violation of international law and can by no means promote democracy and freedom in any country. They are opposed by all countries and run counter to the principle of trade liberalization.

Thirdly, the embargo and sanctions have seriously obstructed and constrained the efforts of the Cuban people to eradicate poverty, improve their living standards, pursue economic and social development and achieve the Millennium Development Goals. They undermine the right of the Cuban people to subsistence and development. The international community is now facing the serious challenge of a global food crisis and the ensuing, worsening problems of hunger and malnutrition, which make the embargo and sanctions more unreasonable than ever.

The Chinese Government always maintains that countries should develop their relations in compliance with the purposes and principles of the Charter and work to promote democracy and the rule of law in international relations. We believe that the right of each country to choose its own social system and the path of development should be respected. Differences between States should be resolved through dialogue and cooperation on the basis of equality and mutual respect.

In view of all that, the Chinese Government calls for the lifting of the economic, commercial and financial embargo imposed by the country concerned against Cuba at an early date. It is our hope that there will be dialogue rather than confrontation, and engagement and exchanges rather than embargo and sanctions. We hope the country concerned will implement the relevant resolution of the General Assembly without delay. China therefore supports the draft resolution submitted by Cuba under the current agenda item.

Mr. Benmehidi (Algeria) (*spoke in French*): Allow me at the outset to associate my delegation with the statements made by the representatives of Antigua and Barbuda on behalf of the Group of 77 and China, and of Egypt on behalf of the Non-Aligned Movement.

Algeria wishes to express once again its serious concern regarding the continuation of the economic, commercial and financial embargo unilaterally imposed for nearly half a century now by the United States of America against Cuba. Algeria reiterates its appeal for the lifting of the embargo against the Cuban people, under which 70 per cent of Cuban citizens were born.

Algeria considers that the economic, commercial and financial embargo of Cuba is a violation of the principles of sovereign equality of States and non-interference in the internal affairs of States, and also violates the right of the Cuban people to development and sovereignty.

The extraterritorial nature of the legislation of one State seeking to impose unilateral sanctions on another constitutes a denial of the principles enshrined in the Charter and runs counter to international law.

Algeria wishes to reaffirm its adherence to the position adopted by the fourteenth summit of the Non-Aligned Movement held in September 2006 in Havana, and to that adopted during the Second South Summit in June 2005 in Doha, both of which rejected coercive economic measures and extraterritorial laws imposed on developing countries, and called on the United States to lift the embargo against Cuba.

In renewing its appeal to the United States of America to lift its embargo against Cuba, which has been continuously rejected by a growing number of countries in the Assembly, indicating that the overwhelming majority of Member States are in favour

of lifting that embargo, my delegation would like to indicate that it will vote in favour of the draft resolution A/63/L.4.

Mr. Al Habib (Islamic Republic of Iran): At the outset, I would like to thank the Secretary-General for his report under agenda item 19, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" (A/63/93). My delegation associates itself with the statements made by the representatives of Antigua and Barbuda on behalf of the Group of 77 and China, and of Egypt on behalf of the Non-Aligned Movement.

The content of resolution 62/3, which was supported by 184 votes in its favour last year, clearly reflects the position of the international community towards the long-standing embargo against Cuba. My delegation reiterates its belief that the economic, commercial and financial embargo against Cuba runs counter to the principle of international law governing relations among States and contradicts the letter and spirit of the Charter, which calls for promoting solidarity, cooperation and friendly relations among nations.

Such measures continue to have an adverse impact on the living conditions and human rights of the Cuban people and will hamper the efforts of the Cuban Government to achieve the internationally agreed development goals, including the Millennium Development Goals. In that context, the embargo is hampering the efforts of the Cuban Government to eradicate poverty and hunger and to promote health and education, which are indispensable to the achievement of economic and social development.

Paragraph 101 of the Johannesburg Plan of Implementation (A/CONF.199/20) stipulates that "States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries". Paragraph 102 of the same document calls upon States to refrain from any unilateral measure that contravenes international law and the Charter of the United Nations and impedes the full achievement of economic and social development by the population of the affected countries, in particular women and children.

Nowadays, resorting to unjustifiable coercive economic measures against other States on the basis of political observations is not acceptable to the

international community. The extraterritorial application of domestic laws, such as the Helms-Burton Act and the D'Amato Act, creates an antagonistic environment in international relations and adversely affects world peace and security. Such political acts with economic implications continue to restrict the investment, trade, employment, technology transfer and prospects for economic growth not only of the targeted countries, but also of third-party countries dealing with the affected country.

There is no doubt that the blockade is in violation of the internationally agreed principles governing relations among States, such as the sovereign equality of States, non-intervention in their internal affairs and freedom of international trade and navigation. In previous statements, my delegation has repeatedly stressed that unilateral coercive economic policies and measures should be regarded as major impediments to the international community's pursuit of its common causes and interests. Such measures have negative impacts on the promotion of cooperation and partnerships that are necessary to create a favourable environment, to the benefit of all at the international level.

The reports of the Cuban Government on the impacts of the embargo imposed on it clearly indicate that such unilateral coercive measures have been conducive to furthering disparities in the areas of health, economy, education and training, trade, tourism, civil aviation and even cultural activities. The adoption of 17 consecutive resolutions up to 2007 by the General Assembly is the wise and laudable reaction of the international community to such unacceptable measures. They call upon all States to refrain from applying such laws and measures and to take the steps necessary to repeal or invalidate them as soon as possible. The reason is clear. Resorting to an embargo as a tool to achieve political objectives undermines the collective efforts of Member States to achieve economic growth and sustainable development at the national, regional and international levels.

In conclusion, my delegation wishes to express its sincere hope that those Member States that still continue to apply unilateral coercive economic laws and measures take the steps necessary to repeal or invalidate them at the earliest opportunity.

Mr. Shukla (India): We associate ourselves with the statement made by the representative of Antigua

and Barbuda on behalf of the Group of 77 in his capacity as its Chair. We thank the Secretary-General for his report (A/63/93) on the agenda item under consideration today.

This is the seventeenth successive year that this Assembly is deliberating the 46-year economic, commercial and financial embargo on Cuba. In its deliberations, the Assembly has repeatedly rejected the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures. The General Assembly has also called upon all States to respect their obligations under the United Nations Charter and international law and to repeal and invalidate laws and measures that have extraterritorial affect on the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction, and the freedom of trade and navigation.

Despite repeated calls by the General Assembly, its resolutions remain unimplemented, in contravention of world opinion. The embargo, particularly its extraterritorial aspects, continues to remain in force. In particular, domestic United States laws, such as the Cuban Democracy Act of 1992 and the Helms-Burton Act of 1996, have enhanced the extraterritorial reach of the embargo by encompassing foreign companies, as well as foreign subsidiaries of United States companies, doing business with Cuba or Cuban entities. We support the categorical rejection by the international community of domestic laws with extraterritorial impact.

The embargo, particularly through its extraterritorial effects, is adversely affecting the Cuban people and the development efforts of the country. Health care is particularly affected due to access controls on critical medical equipment, medicines, technologies and diagnostic aids, apart from the enhanced cost of supplies. In that regard, Cuba's efforts to provide assistance to fellow developing countries as part of South-South cooperation have also borne the brunt of the embargo, making that another unexpected indirect negative extraterritorial impact of the embargo.

Various other areas of the Cuban economy have also been adversely impacted. Those have been elaborated upon in the report of the Secretary-General by various United Nations entities. For example, the United Nations Resident Coordinator in Havana has noted that the negative impact of the embargo

permeates the social, economic and environmental dimensions of human development in Cuba, severely affecting the most vulnerable socio-economic groups of the Cuban population.

Further, the embargo seriously affects the implementation of projects and programmes of the United Nations system in Cuba, including the travel of United Nations staff. The Economic Commission for Latin America and the Caribbean has stated that the embargo significantly affects the standard of living of Cuban citizens. The United Nations Conference on Trade and Development states that the extraterritorial impact is considerable owing to significant United States interests in transnational corporations.

Despite the embargo, the United States of America continues to be a major source of imports for Cuba, insofar as the United States Trade Sanctions Reform and Export Enhancement Act of 2000 permits. That only serves to confirm the potential for trade, commerce and investment between those countries. The embargo also has considerable detrimental effect on United States trade and business opportunities. The various efforts in the United States to relax or lift the embargo indicate the substantial interest, particularly in the business sector, in unhindered access to the Cuban market or contact with Cuba. We therefore look forward to the lifting of sanctions and the embargo against Cuba.

Before concluding, I should like to reiterate India's opposition to unilateral measures by countries that impinge on the sovereignty of another country, including attempts to extend the application of a country's laws extraterritorially to other sovereign nations.

Mr. Churkin (Russian Federation) (*spoke in Russian*): We welcome the participation in today's discussion of Mr. Felipe Pérez Roque, Minister for Foreign Affairs of Cuba. We wish to express our gratitude to the Secretary-General for his report contained in document A/63/93, which reflects the unanimous and unequivocal objection of Member States to the imposition of the unilateral and extraterritorial economic, commercial and financial blockade against Cuba.

Russia's position on the draft resolution (A/63/L.4) introduced under the agenda item has not changed. Our country shares the view of the overwhelming majority of Member States, which

resolutely condemns the United States embargo against Cuba and calls for its end. Since 1994, Russia has been supporting resolutions to that effect at sessions of the General Assembly and has consistently adhered to the position that it is inadmissible to carry out unilateral measures of an extraterritorial nature in international relations.

On 17 October 2008, an appeal was adopted by the parliament of Russia, the State Duma of the Russian Federation, entitled, "To the parliaments of United Nations Member States and international parliamentary organizations concerning the necessity of ending the economic embargo against the Republic of Cuba and helping the Republic of Cuba to eliminate the devastating effects of natural disaster". The appeal emphasizes that "the continuing economic blockade against the Republic of Cuba is an act of crude pressure by the United States of America against a sovereign State".

The continuing commercial, economic and financial blockade of Cuba by the United States is counterproductive and out of step with the spirit of the times in which we live. It is a remnant from the days of the cold war that is hampering the establishment of a new and just world order in accordance with the Charter of the United Nations and international law.

We are convinced that putting an end to the embargo and normalization of United States-Cuba relations in general would help to improve the situation with regard to Cuba and help to further integrate Cuba into regional and global processes. The continuation of the blockade is also incompatible with the efforts now under way to reform the United Nations, for it ignores the unanimous view of Member States regarding the need to work together to implement the principles underpinning our efforts to abandon confrontation and embrace cooperation based on respect for the rights of nations to choose for themselves their political, economic and social systems.

Cuba was badly hit by Hurricane Gustav at the end of August 2008. The Russian Federation gave a helping hand and continues to assist in eliminating the consequences of that natural disaster. We are convinced that putting an end to the embargo and strengthening international efforts in general to support the rehabilitation of the Cuban economy would significantly alleviate the situation in the affected areas.

Guided by the fundamental principles of the Charter with regard to the inadmissibility of any discriminatory measure or interference in the internal affairs of States, Russia will continue its policy to vote in favour of the draft resolution calling for an end to the blockade.

Mr. Gaspar Martins (Angola): The Angolan delegation associates itself with the statements made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and by the representative of Egypt on behalf of the Non-Aligned Movement.

Each year for 16 consecutive years, the General Assembly has adopted a resolution urging all countries, in compliance with the United Nations Charter and the principles of international law, to retract all laws and measures with extraterritorial effects that compromise the sovereignty of other States, undermine the legitimate rights and interests of entities and persons under jurisdiction of those States and affect the freedom of trade and navigation.

Regrettably, however, the long-term economic, commercial and financial embargo against Cuba imposed by the United States of America is still in place. In this era of economic globalization, exchanges and cooperation among countries on an equal footing is the trend of our times. Normal economic, commercial and financial ties among countries are therefore in the interest of all and are by no means a favour done by any one country to others.

The General Assembly has before it the report of the Secretary-General (A/63/93) containing replies from Member States and organs and agencies of the United Nations system on the implementation of the pertinent General Assembly resolutions calling for an end to the embargo. According to that report, there has been no improvement, i.e. action to end the embargo, during all these years. The existing sanctions have been applied with vigour, and the embargo measures have continued to have a serious impact on Cuba, causing enormous social and material loss, economic damage, hunger, and disease to the people of Cuba, while simultaneously affecting third countries in their relations with Cuba.

The extraterritorial policy of the embargo threatens the sovereignty of States and the legitimate interests of persons, entities, institutions and companies under their jurisdiction, as well as the freedom to establish economic, commercial, financial

and scientific and technical relations with the Republic of Cuba and thus affects their social and economic development. For that reason, we are of the view that the issue we are addressing today is important, not only for Cuba but also for all members of the international community. That view has been expressed by a majority of Member States year after year.

The United States of America has imposed the economic, financial and commercial embargo against Cuba for too long. The embargo does not benefit either of the two countries. On the contrary, it serves only to maintain a level of tension in the region and, above all, it has been causing the severe suffering of the Cuban people, a situation which has been exacerbated by climatic changes and more particularly during the hurricane season and hurricanes Gustav and Ike of this year.

The embargo goes against the very core of the United Nations Charter, as well as all of the principles of cooperation and dialogue among States, laws governing international trade and related conventions.

By adhering to the principles enshrined in the United Nations Charter and the spirit of all relevant resolutions adopted by the General Assembly, we reaffirm our commitment to the norms of international law by supporting the need to eliminate coercive economic measures as a means of political and economic persuasion.

Attendance by delegations of the General Assembly at debates is a good measure of the importance of the issue on the agenda. In that connection, I wish to warmly greet and welcome the presence of Mr. Pérez Roque, Minister for Foreign Affairs of Cuba.

Delegations participate very actively in the debate on the question of the embargo imposed on Cuba by the United States and vote overwhelmingly year after year against that embargo, which is a clear indication of the injustice and unpopularity of the United States measure.

In view of the above, the Angolan Government supports draft resolution A/63/L.4 submitted by Cuba under the current agenda item, since the embargo contravenes international law and flagrantly violates the sovereign equality of States and the principles of non-intervention and non-interference in domestic affairs.

Mr. Kapambwe (Zambia): Earlier in the day, the representatives of Antigua and Barbuda and Egypt made statements on behalf of the Group of 77 and China and the Non-Aligned Movement, respectively. My delegation wishes to associate itself with both those statements.

My delegation would like to thank the Secretary-General for his report contained in document A/63/93, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba". The report reiterates the position of the General Assembly over the years to the effect that the embargo imposed by the United States of America against Cuba hurts innocent people in Cuba.

Last year, and indeed in previous years, Zambia was among the overwhelming majority of States Members of the United Nations that voted in favour of General Assembly resolution 62/3, calling for the lifting of the embargo.

Zambia has consistently expressed concern over the continued economic embargo imposed by the United States against Cuba, not only because it is unjust towards the people of Cuba, but also because its unilateral and extraterritorial effects are a breach of the international principles of free trade and navigation espoused by the United Nations.

Zambia will again vote in favour of draft resolution A/63/L.4, entitled "Necessity of ending the economic, commercial and financial embargo by the United States of America against Cuba". Our vote is based on our firm commitment to strengthen universal respect for international law in the conduct of all forms of relations among sovereign States and our belief in the sanctity of the Charter of the United Nations. We further believe that differences between the United States of America and Cuba should be resolved through dialogue and negotiation.

Zambia reaffirms its appeal to the international community to support the call for the immediate lifting of the economic, commercial and financial embargo imposed by the United States of America against Cuba.

Mr. Godard (United States of America): The position of the United States on this draft resolution (A/63/L.4) is well known. Each of the States Members of the United Nations has the sovereign right to conduct its own trade with another country as it sees

fit, subject only to the treaty obligations it has freely undertaken.

As a bilateral issue relating to the efforts of the United States to mitigate the impact of the repressive policies of the Cuban Government towards its own people, we believe it is highly inappropriate that the General Assembly of the United Nations consider that resolution. As we have noted in the past, at various times many other States or regional groups have taken actions to restrict their exports to and imports from other States for a variety of reasons. There is no doubt that Member States represented here today would vigorously defend their right to determine their own national trade policy if it were called into question.

Cuba asserts that the economic sanctions imposed by the United States on the Cuban Government cause serious damage to the welfare of the Cuban people. In fact, as we have conclusively demonstrated since the General Assembly first began debating this draft resolution in 1992, the trade policy of the United States towards Cuba is carefully designed to allow the Cuban people access to food and humanitarian goods, but to limit the ability of Cuba's repressive Government to benefit and consolidate power through its authoritarian control over the Cuban economy. Above all, our trade policy seeks to keep away from Cuba's leaders resources that they would use to strengthen their repressive political and economic system.

Indeed, the American people remain the largest providers of humanitarian aid to the Cuban people. In 2007, the American people provided \$240.5 million in private humanitarian assistance. That was in the form of gift parcels filled with food and other basic necessities to the tune of \$179.4 million. Also, there were non-agricultural humanitarian donations of \$20.6 million and medical donations of \$40.5 million.

In addition to offering Government assistance, the United States has increased existing authorizations for United States-based non-governmental organizations to provide larger amounts of humanitarian assistance, including in the form of cash donations, to help address the basic needs of the Cuban people. We have already authorized over \$10 million in private cash donations.

In 2008, the United States has been especially sensitive to the plight of the Cuban people in light of the devastation suffered throughout the Caribbean. Cuba has suffered great damage from hurricanes Gustav

and Ike since the end of August. Some assistance has been delivered through non-governmental relief and humanitarian organizations, but more is needed to help the Cuban people, and, under those extraordinary circumstances, the United States Government stands ready to provide that assistance.

On four separate occasions, the United States Government has offered to provide the Cuban people with up to \$5 million in emergency humanitarian assistance for those in dire need. On 3 September 2008, the United States Government issued a disaster declaration in response to the damage caused by Hurricane Gustav and made available an initial \$100,000 in cash relief assistance to humanitarian organizations working in Cuba.

The United States Government also offered to provide a humanitarian assessment team — something we usually do in such instances — to assist in producing rapid emergency assessments of health, sanitation, water, shelter and food supply to help in the organization of the relief effort. That offer was rejected by the Cuban Government.

In the wake of the damage caused by Hurricane Ike, the United States Government set aside an additional \$200,000 for non-governmental relief organizations and reiterated our offer to provide a humanitarian assessment team. Again, the Cuban Government rejected our offer.

On 13 September of this year, as information on the extensive damage from the hurricanes became known, the United States Government offered a relief package of roughly \$5 million that included an unconditional offer of humanitarian assistance to benefit 135,000 Cuban hurricane victims and continued assistance to non-governmental organizations. For the third time, the Cuban Government rejected our offer.

On 19 September 2008, the United States Government offered unconditionally to provide relief supplies directly to the Cuban Government at a value of approximately \$5 million. Those supplies are composed of family emergency shelters and household kits that could assist up to 48,000 Cubans affected by the hurricanes. The Cuban Government has not responded to that offer of assistance.

As is well known, United States law permits the sale of medicine, medical supplies and agricultural products to Cuba. Indeed, the United States is Cuba's

top supplier of food. United States producers exported \$448 million in agricultural products to Cuba in 2007. Since Hurricane Ike struck on 7 September, the United States has licensed \$396 million in agricultural sales to Cuba. Lumber, an important construction material, is included in the category of agricultural sales. The United States has authorized \$53 million in humanitarian donations by United States entities to hurricane victims, including building materials to help storm victims to repair their homes. We have also authorized gift parcel consolidators to export \$124 million in gift parcels to Cuba.

Despite that clear demonstration of United States interest in the welfare of the Cuban people, Cuban officials, including the chief of mission in Washington, Jorge Bolaños Suárez, continue to make outrageous statements about the nature of the United States sanctions. It is indicative of the lack of interest that the Castro regime has in the well-being of its own people that it would refuse sincere offers of assistance, choosing instead to prolong their suffering as a pretext for proposing draft resolutions such as the one on which we will vote today.

In conclusion, let me remind the Assembly that the real reason that the Cuban economy is in terrible condition and that so many Cubans remain mired in poverty is that Cuba's regime continues to deny its people their basic human and economic rights. Indeed, one Latin American observer described Cuba as an "undeveloping" country thanks to the policies of the Castro regime that have turned it from one of the region's most prosperous economies into one of its poorest. We again invite Member States, as we have done consistently in debating this draft resolution in past years, to reject the false arguments of the Cuban Government and to focus on effecting a transition in Cuba that would restore its people's fundamental rights.

Mrs. Rubiales de Chamorro (Nicaragua) (*spoke in Spanish*): As this is the first time that I have addressed the General Assembly at its present session, I wish to express my deepest satisfaction at seeing you, Sir, an example of the dignity of our people, leading our deliberations. We know that your commitment to peace and justice will guide our work. As always, you have Nicaragua's full support with a view to success in your efforts.

Nicaragua aligns itself with the statements made by the representative of Egypt on behalf of the Non-Aligned Movement and by the representative of Antigua and Barbuda on behalf of the Group of 77 and China.

Once again, we are meeting as a result of the imperative need to put an end to the economic, commercial and financial blockade imposed by the Government of the United States of America against the heroic and generous people and Government of Cuba, and the General Assembly will adopt a draft resolution calling for an end to that criminal and inhumane blockade. It has been amply demonstrated that no one in the world supports that measure. It is truly sad to see that the Government of a people as generous as the people of the United States is capable of being so mean-spirited and greedy as to try to crush the spirit of independence, self-determination and internationalist solidarity that characterizes the Government and the people of Cuba — a spirit that they will never give up.

What suffering in human, social, economic and cultural terms has been caused to the Cuban people by these policies of the Government of the United States! This blockade and this suffering must end. We cannot allow a country to continue to manipulate international law and the Charter of the United Nations according to its whim. How many more draft resolutions will the General Assembly have to adopt to put an immediate end to this criminal blockade?

Cases such as this lead us to think about the imperative need to make General Assembly resolutions binding and mandatory, so that we can truly promote, defend and deepen democracy and its values in our great House, the United Nations family. No argument that the United States of America can use will ever justify this aggression against and violation of international law, the norms of coexistence among nations, international freedom of trade and navigation and the United Nations Charter itself, which all of us claim to defend and respect.

Nicaragua condemns in the strongest terms those policies of pressure and blackmail. It was not so long ago that Nicaragua was a victim of the same policy of blockade and blackmail, including external military aggression, by the Government of the United States of that era. Once again, we express our unconditional solidarity with the Government and the people of Cuba

and demand an immediate end to this criminal blockade. We reiterate that disputes between States must be addressed through dialogue and negotiation, without any preconditions and on an equal footing between the parties involved.

Despite this blockade, and the restrictions that it imposes, there is no people that, at times of need or disaster, has not received the disinterested aid, support and humanitarian assistance of all those Cuban doctors, teachers and technicians, who live among our people, sharing our hopes and dreams for a more humane world.

We await the moment when good sense and intelligence will prevail, when we will become witnesses to a genuine change that will redress these obsolete policies that do not contribute to peace, development or strengthening good relationships among peoples.

In recent months, American media have been reporting about an historic opportunity in the society of that country, referring to change. We hope that the change, about which so much has been said, will be positive change, similar to what is happening in Latin America and the Caribbean. We hope that these changes will support development, respect for the sovereign decisions of our peoples and that, once and for all, the economic, commercial and financial embargo against Cuba will be lifted.

We wish to express our affection, respect and admiration for the five Cuban patriotic heroes, who have served ten years in maximum security prisons in the United States. We demand the immediate release of these five heroes, who sacrificed themselves to defend their homeland and combat the terrorism that is exerted against the Cuban people.

In conclusion, we would like to recognize Commandante Fidel as one of the greatest fighters for peace and solidarity of our days. The light of hope that was lit by the Cuban revolution can never be extinguished by this infamous blockade.

Mr. Gonsalves (Saint Vincent and the Grenadines): Saint Vincent and the Grenadines associates itself with the statements made on behalf of the Caribbean Community (CARICOM), the Non-Aligned Movement and the Group of 77 and China.

The year 2008 marks the seventeenth consecutive year that the United Nations is considering a draft resolution on this topic (A/63/L.4). Seventeen years ago, this draft resolution seemed to be an apt postscript to a troubling chapter in world history. The Berlin Wall had come down two years earlier, the Union of Soviet Socialist Republics had been dissolved and the so-called Iron Curtain had been lifted. The cold war logic of dividing the world into competing spheres and separating ideological foe from friend by blockades, walls and embargoes was giving way to a realization that every nation is closely interconnected, and to a commitment to link our societies and markets together through globalization, trade and tighter coordination. Regional cooperation and integration flourished and accelerated, in the European Union, the African Union, the North American Free Trade Agreement (NAFTA), the Association of Southeast Asian Nations (ASEAN), the Common Market of the South (MERCOSUR) and CARICOM, to name but a few.

Today, 17 years later, globalization — for better and for worse — has taken hold, and the world recognizes the fundamental interconnectedness of our markets, our economies, our commercial interests and, indeed, our peoples. We are one global village, with a singular mission of eliminating artificial barriers between and among one another.

The developments of the last 17 years, therefore, give inexorable rise to the question: why is Cuba still the subject of a cold war embargo, when the cold war itself has long since ceased to exist? Seldom has a more ill-conceived, illogical and illegal measure been applied so punitively, and for so long to a people so wholly undeserving of such punishment.

Saint Vincent and the Grenadines wishes to take this opportunity to extend its most profound and heartfelt gratitude to the people of Cuba, who have graduated over 200 Vincentian university students and who are currently playing host to 150 more, and whose surgeons performed operations on over 3,000 patients who required the care of ophthalmologists. Quite literally, they brought sight to the blind. We would like to thank Cuba for her doctors, who bring medical care and expertise to rural areas of our country, and for her engineers and architects and workers, who are currently assisting us in the construction of a hospital and an international airport.

As far wealthier nations and institutions have looked askance at our developmental struggles and offered only dubious prescriptions, platitudes and trite clichés, the Cuban people have rolled up their sleeves and given freely of themselves in a manner that has touched the hearts and souls of the Vincentian people.

The United States of America has the sovereign right to trade with whom it chooses, and Saint Vincent and the Grenadines would not presume to advise any State with regard to its bilateral trading arrangements. However, the extraterritorial application of domestic law is a violation of our Charter and a contravention of the underpinnings of our modern notions of global trade and international relations. It does violence to the rights of self-determination and sovereign equality. Further, the member States of CARICOM — all staunch friends of the United States — also suffer from this embargo, because it affects Cuba's considerable potential as the largest and most populous Caribbean island to act as an economic engine for the region, and engenders unnecessary tension in our peaceful waters.

The economic fate of Cuba and the wider Caribbean cannot be subject to the whims of local pressure groups, no matter their relative influence. Domestic considerations cannot outweigh the inalienable rights of over 11 million Cubans or create exceptions to the bedrock principles of our international community and our market systems.

The specific ideological divides that drove this embargo no longer apply. Today, Western Europe is buying oil piped in from Russia and shipped from Iran. The United States is one of China's largest trading partners, and the capitals of unfettered laissez-faire capitalism are now embracing nationalizations and other massive state interventions in their free markets. The old lines have so blurred as to become meaningless. As an ideological tool, the embargo is a relic of a bygone era.

This embargo has not blockaded Cuban culture, the undeniable power of which has enriched the shores of south Florida and the world. This embargo has not contained Cuba's peerless athletic brilliance, which thrills the world in countless competitive forums. This embargo has not thwarted Cuba's standing in the marketplace of ideas, where it competes on an equal persuasive footing with others. And this embargo has not curtailed the Cuban generosity of body and spirit to which the poor and struggling peoples of Africa, Asia,

Latin America and the Caribbean can eloquently attest. It has only caused the unnecessary suffering of a proud and noble people, who are nonetheless neither bowed nor broken by what is an increasingly indefensible act.

Indeed, there is troubling anecdotal evidence that ideological zealots and washed-up terrorists seek to exploit the existence of this embargo to suit their own nefarious designs. Cuba, the victim of modern terrorism as far back as the Cubana Airlines bombing in 1976, and the United States, cruelly and tragically attacked as recently as 11 September 2001, have common cause in the fight against terrorism, and both have heroic patriots standing guard, at home and abroad, to protect their nations against such savagery. In a world united in the war on terrorism, the embargo cannot stand as a flickering flame to which the moths of barbarism are drawn.

José Martí, the apostle of Cuban independence, once said:

"Like stones rolling down hills, fair ideas reach their objectives despite all obstacles and barriers. It may be possible to speed or hinder them, but impossible to stop them."

The necessity of ending this embargo is a fair idea whose time has come. It has been hindered by 17 years of obstacles thus far, but its inexorable path to fruition is undeniable. Let us dally no longer in the dusty corners of historical recriminations. Let us instead agree collectively that it is time to change, to move on with our globalized, multilateral, multicultural, multipolar experiment, to look to the future with hope and to correct this historical travesty.

Mr. Iddi (United Republic of Tanzania): For the last 16 consecutive years, this Assembly has been calling for an end to the economic, commercial and financial embargo against Cuba. It is unfortunate that all the calls of this body have been to no avail. Today, for the seventeenth time, the delegation of Tanzania joins others in renewing the appeal for the expeditious lifting of the embargo against Cuba.

We align ourselves with the statements made by the representatives by Antigua and Barbuda on behalf of the Group of 77 and China and by Egypt on behalf of the Non-Aligned Movement.

We thank the Secretary-General for his report in document A/63/93, entitled "Necessity of ending the economic, commercial and financial embargo imposed

by the United States of America against Cuba". The responses from Member States, as reflected in the Secretary-General's report, clearly show that the international community does not support the embargo and that it is sympathetic to the plight of the people of Cuba.

My delegation is seriously concerned by the negative effect of the embargo on the social, economic and environmental dimensions of human development in Cuba. The embargo is severely affecting the most vulnerable socio-economic groups of the Cuban population, as was seen during the recent hurricanes Gustav and Ike, when there was no consideration for humanitarian support. We are further concerned that the embargo severely affects the implementation of United Nations projects and programmes in Cuba. It is ironic that that is happening when the international community is trying to meet internationally agreed development goals, including the Millennium Development Goals.

Thus the need to end the embargo against Cuba should be viewed not only against the backdrop of politics and power, but also on moral and humanitarian grounds. It is our conviction that lifting the embargo would help not only to alleviate the socio-economic conditions and suffering of the Cuban people, but also to promote dialogue, understanding and good-neighbourliness among States and, hence, development, peace and security.

This Assembly cannot afford to remain indifferent to the suffering of the people of Cuba. Our shared history and collective experience have shown that, in comparison to cooperation and dialogue, isolation, the embargo and unilateralism have not been effective. Thus we feel there is a need to encourage dialogue between the United States of America and Cuba. We also need to explore other approaches beyond passing resolutions, so as to persuade the United States of America to lift the embargo against the Government of Cuba and its people.

In conclusion, my delegation reiterates its sympathy for the people and the Government of Cuba and, in solidarity with other Member States, joins them in calling for an end to the economic, commercial and financial embargo imposed on Cuba.

The President (*spoke in Spanish*): I now give the floor to His Excellency Felipe Pérez Roque, Minister

for Foreign Affairs of the Republic of Cuba, to introduce draft resolution A/63/L.4.

Mr. Pérez Roque (Cuba) (*spoke in Spanish*): Mr. President — dear Father Miguel d'Escoto — I would like once again to welcome your election and your presence at this debate. You are the incarnation here today of the voice of the people, the voice of the humble. You can rely on Cuba, Father.

As in every year since 1992, we appear before the General Assembly to call for the lifting of the illegal and unjust blockade imposed by the Government of the United States against Cuba for the past almost 50 years. Seven out of every ten Cubans have spent their entire lives under that irrational and worthless policy that attempts, with no success, to bring our people to their knees. The blockade is older than Mr. Barack Obama and everyone in my generation.

The vote that is going to take place within a few minutes is occurring in very special circumstances, after the devastating passage of two powerful hurricanes through Cuba, when we are just six days away from the United States elections and against the background of a profound international economic crisis, to which none of our countries is immune.

The more than 500,000 homes and thousands of schools and health institutions affected, a third of cultivated land devastated and severe destruction of the electrical and communications infrastructure, among other damage, are the result of natural phenomena that have never been seen before and that are proof of the effects of climatic changes on the countries in the Caribbean.

The loss of human lives was minimal because of the enormous effort made earlier by the authorities and the people, enabling the evacuation of and protection for 3.2 million people in safe locations. After all, it was Cuba, and not New Orleans at the time of hurricane Katrina. Despite the heavy damage and devastation caused by the hurricanes, no sick person in Cuba lacked medical assistance. All Cuban children and the 30,000 young people from 125 countries with scholarships to study in our universities are at this very moment attending their classes. Not one person was or will be neglected.

On behalf of the Government and people of Cuba, I would like to express our deep thanks to all those who, in one form or another, demonstrated their

solidarity with and support for Cuba at that dramatic juncture. To date, we have received help from 64 countries.

In contrast to the extensive solidarity received and the affirmation made here this morning by the representative of the Government of the United States, to which I shall reply in good time, that Government responded with its customary cynicism and hypocrisy. It refused to respond to our request that we be allowed to buy food and essential materials for reconstruction with private credits from American companies — even for six months. On the other hand, it attempted to orchestrate a blatant propaganda campaign in which it tried to accuse our Government of not looking after its people.

As for Cuba, it has acted in keeping with its traditional principled positions. We cannot accept so-called assistance from those who have intensified the blockade, sanctions and hostility against our people. Cuba has not asked the United States Government for any gifts. We have simply asked to be allowed to make purchases.

Once again, the Bush Administration is lying to the international community. It is lying when it declares that it granted licences for \$250 million in agricultural sales to our country after the hurricanes. Food sales have existed since 2001 and are not — as in the attempted explanation just made here — the result of a decision made after the devastating hurricanes to help Cuba. Food sales have existed since 2001. Acquiring such products is possible only under strict measures of supervision and after a complicated and bureaucratic process of granting licences, case by case, by the numerous institutions of the United States Government. Cuba, moreover, has to pay in cash and in advance. The reality is that the United States Government is continuously setting up more obstacles in order to limit those purchases.

If the United States Government was really concerned about the well-being of the Cuban people, the only moral and ethical act would be to lift the blockade imposed on my country in violation of the most elemental regulations of international law and the United Nations Charter.

To give an idea about the magnitude of the impact of the blockade policy on the Cuban people, just in economic terms, it would enough to say that in

one year it almost equals the estimated total damages caused by hurricanes Gustav and Ike.

Hurricanes are natural phenomena that are aggravated by climate changes and global warming. Unfortunately, they cannot be avoided. The blockade is a genocidal and illegal policy. Unlike the hurricanes, the American authorities are able to put an end to this policy and spare the Cuban people their prolonged suffering.

The economic, commercial and financial blockade imposed by the United States Government against Cuba is the main obstacle to both the recovery of the Cuban people after the hurricanes and our economic and social development. Very conservative estimates reveal that direct accumulated damages caused by the blockade exceed \$93 billion, almost twice our gross domestic product. At the current value of the dollar, that equals no less than \$224.6 billion. It is not difficult to imagine all that Cuba could have achieved if, over these almost 50 years, it had not been subjected to that brutal economic war on a global scale.

In open contempt of the expressed will of the international community and of 16 consecutive General Assembly resolutions, the United States Government during this past year adopted new and tougher economic sanctions against Cuba. It intensified persecution against activities of Cuban companies and those of other countries and unleashed a mad hunt against our international financial transactions, including when we were trying to make our payments to United Nations bodies. Its malice has reached such an extent that it blocks Internet sites that have links to our country.

On the other hand, Washington has increased, to unprecedented levels, its financial and material support for actions to overthrow Cuban constitutional order. To that end, it has approved an additional \$46 million for internal subversion in Cuba and another \$39 million to maintain the illegal radio and television broadcasts against our country. Those funds alone are eight times greater than the so-called donation offered to Cuban people after the hurricanes. In a report drawn up by the Government Accountability Office of the American Government, published in November 2007, it is explicitly recognized that of the 20 programmes of sanctions applied to different countries, the blockade against Cuba constitutes an ensemble of economic

sanctions that are the most extensive of any ever imposed by the United States.

The broad and documented report of the Secretary-General (A/63/93) with the contribution of 118 countries and 22 international bodies and agencies, relieves me from insisting here on the examples that prove that there is no aspect of Cuba's economic or social life that is not affected by the American blockade, from the impossibility of gaining access to consumables and equipment for paediatric cardiovascular surgery or for the tomography essential to modern oncology to the persecution by fines and imprisonment of American citizens travelling to Cuba and even of travel agencies that promote such travel, the United States Government ought to explain to the Assembly why it considers Cuban children who are suffering from heart disease to be enemies. Every year, the representatives of the Government of the United States lie to the Assembly when they repeat that such a blockade does not exist, that their measures are not the main causes of the shortages and suffering that the Cuban people have suffered, and continue to suffer, over the course of these years.

The blockade is not exclusively a bilateral matter between Cuba and the United States. The extraterritorial application of American laws and persecution of legitimate interests of companies and citizens of third countries — countries represented here in this Assembly — is a subject which concerns all the States assembled here.

The blockade also flagrantly violates the rights of the American people. It crushes their freedom to travel, sanctified in the very Constitution of the United States. In recent years, the Treasury Department has toughened its strict policy of refusing licences for religious, professional, cultural and student exchanges between the American and Cuban peoples. Moreover, the blockade impedes normal relations between Cubans residing in the United States and their relatives in Cuba.

Shortly, a new President will be elected in the United States. He should decide whether he will admit that the blockade is a failed policy that is steadily causing greater isolation and discrediting his country, or if he will stubbornly and cruelly persist in trying to wear out the Cuban people through hunger and disease.

From this podium, I repeat that the United States will never be able to vanquish the Cuban people. Neither blockades nor hurricanes will be able to

discourage us. No human or natural force will be able to subjugate the Cubans. By way of an example, there are those five Cuban heroes, fighters against terrorism, who have already spent a decade of unjust and cruel imprisonment in American jails and who are a symbol of the determination of our people to defend their liberty and independence with dignity.

I am grateful to the speakers who preceded me for their words of solidarity and encouragement to the Cuban people. I thank them for defending the right of Cubans, which today is also the right of every people represented here, and for upholding the Charter and international law.

I reject word for word the remarks made here by the representative of the United States Government. To him I say that those representatives of the United States Government in this Hall should feel a sense of shame. They are alone, in the greatest and deepest isolation. The world supports our small defiant island. I want to make it clear that we are not anti-American. We are anti-imperialist. We do not profess hatred for the American people, nor a spirit of revenge. We see the American people also as a victim, like us, of the illegal and absurd policy of their Government. Something other than power and military strength is needed. They should have figured that out by now. Moral authority is needed.

It is true that the United States has strength, but we have reason. It has no arguments. Every year, it repeats the same series of irrelevant and unconnected ideas, but we have all the valid arguments. They appear in the documents that have been circulated today and in our words. Its Secretary of State is not at this Assembly not only out of arrogance, but because she has nothing to say. Fear and shame also feature in that decision. The United States threatens. We never threaten. We ask for support from this Assembly with respect and chivalry. It uses lies. We use the truth. It is punishing our children, our elderly and our sick. We do not blame its people. Its people are also a victim. We offered it our doctors and their expertise to save lives and alleviate suffering at the time of hurricane Katrina. It did not allow us to send them. One day it will have to answer for that decision.

Its President will be leaving office in a few days. He tightened the embargo against Cuba to inconceivable limits. He took the economic war against us to a schizophrenic level. He threatened us with

regime change, yet he will leave without achieving it. He is the tenth to leave office repeating the same failed illegal policy. It is true that the United States and its policy need to change. It is true that "We need change". It is also true that we need to change the world in which we live, one of demands and blackmail, and we need to build a world in which the rights of all peoples are respected. I affirm that "You cannot fool all the people all the time", as the great Abraham Lincoln asserted, whom our people also respect and pay tribute to.

The United States has said that its policy is very well known, and that is true. It has said that it is defending the right to trade between countries that wish to do so. Its policy is very well known, but what is not understood is why it maintains that policy when it is rejected universally and by its own people. It can decide not to trade with a country, but it does not have the right to persecute its own businessmen because they want to trade with or invest in Cuba, let alone persecute businessmen of other countries under the Helms-Burton law or other extraterritorial legislation.

It asks the Assembly not to consider the draft resolution that Cuba has put forward (A/63/L.4). Before the General Assembly, we insist on the importance and need to consider this draft resolution and to adopt it, because what is at stake here is not just Cuba's right, but the right of all.

The United States has talked about a dance of millions. It has repeated many figures — millions that it supposedly has offered. It is true that it offered us \$5 million four times and we refused it, because our dignity cannot be bought for \$5 million, or for \$500 million, or for \$5 billion or for \$500 billion. That is what we said, if that is what they had in mind. It has said that the words of Ambassador Jorge Bolanos, chief of the Cuban Interests Section in Washington, are unacceptable. Here I say once again, word for word: the embargo is a genocidal, illegal policy and should be lifted immediately, respecting the cry that has already been endorsed 16 times by this Assembly.

Finally, I would like to convey the feeling currently rousing our people and our island. They are closely following this debate. When my son was born in 1995, this Assembly had already voted against the United States blockade against Cuba. Now my son is 13 years old. When my daughter was born in 2000, this Assembly had already voted eight times against the

embargo. Now my daughter is eight years old. How much longer will Cuban children and young people have to wait for justice? How long will the Cuban people, who have received the unanimous support of this Assembly, have to wait before their rights are recognized and justice is done? How much longer will North American young people have to run the risk of being fined or jailed because they want to come to Cuba, visit our universities and meet our students? For how much longer will it be considered a crime for a citizen of a third country, one of the countries represented here today, to try to trade with or invest in Cuba? How much longer will there be an attempt to subjugate, through hunger and disease, children such as mine, who live in Cuba and dream and believe that a better world is possible, a world in which the dignity, independence and self-determination of all peoples are respected?

The representative of the United States has asked this Assembly not to support our draft resolution. We respectfully call upon all members to support Cuba, to support our rights and to support our draft resolution. On behalf of the Cuban people, who have proved a thousand times their heroic nature, who, despite adversity, have not been and will not be defeated and whose hope and happiness has not been embargoed or extinguished, I once again call on the solidarity of this Assembly. On behalf of the Cuban people, who put their faith in the decision that members must make in a few moments, I ask that members vote in favour of the draft resolution entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

The President (*spoke in Spanish*): We have heard the last speaker in the debate on this item.

The Assembly will now take a decision on draft resolution A/63/L.4. A recorded vote has been requested.

A recorded vote was taken.

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic,

Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe

Against:

Israel, Palau, United States of America

Abstaining:

Marshall Islands, Micronesia (Federated States of)

Draft resolution A/63/L.4 was adopted by 185 votes to 3, with 2 abstentions (resolution 63/7).

The President (*spoke in Spanish*): Before giving the floor to speakers in explanation of vote on the resolution just adopted, I would like to remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. Lacroix (France) (*spoke in French*): I have the honour to speak on behalf of the European Union. The candidate countries Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania and Montenegro, the country of the European Free Trade Area Iceland, member of the European Economic Area, as well as Ukraine and the Republic of Moldova, align themselves with this explanation of vote.

Mr. Siles Alvarado (Bolivia), Vice-President, took the Chair.

The European Union believes that the United States trade policy towards Cuba is fundamentally a bilateral issue. Nonetheless, the European Union and its member States have clearly expressed their opposition to the extraterritorial extension of the United States embargo, as contained in the Cuban Democracy Act of 1992 and the Helms-Burton Act of 1996.

The European Union cannot accept that unilateral measures imposed by the United States on specific countries limit the Union's economic and commercial relations with third countries, in this case Cuba. Therefore, in November 1996, the Council of Ministers of the European Union adopted a regulation and a joint action to protect the interests of natural or legal persons resident in the European Union against the extraterritorial effects of the Helms-Burton Act, prohibiting compliance with that law.

Moreover, on 18 May 1998, at the European Union-United States summit held in London, a package was agreed that included waivers to titles III and IV of the Helms-Burton Act; a commitment by the United States Administration to resist future extraterritorial legislation of that kind; and rules of conduct in order to protect investments. The European Union continues to urge the United States to implement the commitments it undertook under the 18 May 1998 agreement.

The European Union's policy towards Cuba is clear and was set out in a common position in 1996.

The objective of the European Union in its relations with Cuba is to encourage a peaceful transition process, led by the Cuban people, to a pluralist democracy, respect for human rights and fundamental freedoms, sustainable economic recovery and improvement in the living standards of the Cuban people.

The President returned to the Chair.

While reaffirming the validity of the common position of 1996, this past June the European Union decided to lift the restrictive measures against Cuba and propose a dialogue without preconditions to the Havana authorities, based on reciprocity and non-discrimination. The Cuban Government accepted the offer, and a ministerial political dialogue session was held in Paris on 16 October. The dialogue addressed all the issues of common interest, including human rights, an area in which Europeans expect concrete action from the authorities in Havana. In addition, the European Union will continue its dialogue with civil society and the democratic opposition.

In recent months, the human rights situation in Cuba has seen a few positive developments: Cuba's signing of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; the visit of the United Nations Special Rapporteur on the right to food and the possibility of visits from other rapporteurs; and the commutation of death sentences to prison sentences.

However, the human rights situation in Cuba has not fundamentally changed, despite a decrease in the number of political prisoners and acts of harassment. The Cuban Government continues to deny its citizens internationally recognized civil, political and economic rights and freedoms. The European Union once again urges the Cuban Government to release unconditionally all political prisoners. That is one of the major priorities of the Union's policy concerning Cuba. In particular, the European Union expressed utmost concern about the deteriorating health of several political prisoners who are members of the group of 75 political prisoners detained since March 2003, and calls upon the Cuban authorities to release them immediately. The European Union also reiterates its call on the Cuban Government to grant freedom of expression and free access to information.

The Cuban Government's achievements in health care and education are undermined by its restrictions on civil, political and economic rights. Domestic Cuban economic policy and the economic, commercial and financial embargo imposed by the United States seriously hamper the economic development of Cuba, negatively affecting the standards of living of the Cuban people.

With regard to the United States of America, we express our rejection of all unilateral measures against Cuba, which are contrary to the commonly accepted rules of international trade. We reaffirm our belief that the lifting of the United States trade embargo would help open Cuba's economy, to the benefit of the Cuban people. With regard to Cuba, the European Union urges the Cuban authorities to bring about real improvements in all the fields I have mentioned.

For all of those reasons, and in spite of the serious criticisms arising as a result of Cuba's human rights record, the European Union unanimously voted in favour of the resolution just adopted.

Mrs. Viotti (Brazil) (*spoke in Spanish*): I have the honour of taking the floor on behalf of the Common Market of the South (MERCOSUR) and associated States: Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, the Bolivarian Republic of Venezuela and my own country, Brazil.

As in past years, the MERCOSUR States parties and associated States voted in favour of the draft resolution proposed by the Cuban delegation, as we believe that the embargo against that country is in violation of international law and is contrary to the principles of the Charter of the United Nations. The embargo has previously been condemned here in the United Nations and in other forums and international organizations such as the Organization of American States, the Latin American Economic System, the Latin American Summit and the Rio Group summits.

The position of MERCOSUR is based on the broader principle of defending multilateralism, non-intervention and the peaceful settlement of disputes, which are the fundamental principles of diplomacy in South America. The embargo against Cuba is not in line with the rules of the World Trade Organization, which regulate international trade through agreements that are binding for its members.

MERCOSUR member States and associated States condemn the application of unilateral coercive measures that impede free trade, that cause irreparable damage to the well-being of peoples and that obstruct the processes of regional integration. MERCOSUR and its associated States reject as a matter of principle unilateral and extraterritorial measures. That is another reason why we voted in favour of the draft resolution proposed by the Cuban delegation.

In voting in favour of this resolution, MERCOSUR and its associated States reiterated their commitment to multilateralism as a legitimate tool for dispute settlement between States and an effective instrument to promote international cooperation, human rights, security and understanding among peoples.

Mrs. Phommachanh (Lao People's Democratic Republic): The Lao People's Democratic Republic associates itself with the statements made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and by the representative of Egypt on behalf of the Non-Aligned Movement.

The Lao People's Democratic Republic reiterates its opposition to the continued unilateral imposition of the economic, commercial and financial embargo upon the Republic of Cuba by the Government of the United States of America. The embargo, with its extraterritorial implications, is in direct violation of the principles and purposes of the United Nations Charter. Furthermore, it continues to cause untold suffering and hardship for the Cuban people and to hinder Cuba's progress in terms of socio-economic development.

The adoption of the relevant resolutions with the overwhelming support of the General Assembly for 16 consecutive years indicates the international community's rejection of unilateral coercive economic measures in general and to the economic, commercial and financial embargo against Cuba in particular. The resolution just adopted once again confirms the friendship and solidarity of the international community with the Cuban people and calls for the immediate and unconditional lifting of the embargo against Cuba.

The Lao People's Democratic Republic believes in the importance of resolving differences between countries through peaceful dialogue and negotiation on the basis of equality and mutual respect for sovereignty. In that respect, the Lao People's

Democratic Republic reaffirms its continued support for the General Assembly's resolutions on this item and voted in favour of the resolution just adopted.

Mrs. Wahab (Indonesia): The delegation of Indonesia recognizes the importance of the Assembly's having adopted resolution 63/7, which deals with the necessity of ending the economic, commercial and financial embargo against Cuba. In addressing this issue, Indonesia aligns itself with the statements made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and by the Permanent Representative of Egypt on behalf of the Non-Aligned Movement.

Indonesia voted in favour of the resolution, as we consistently and strongly believe that the actions highlighted in the resolution run counter to the principles enshrined in the Charter of the United Nations and the right of peoples to life, well-being and development without distinctions of any kind. Indonesia is in full agreement with the rest of the international community on this issue. We urge an end to the economic, commercial and financial embargo against Cuba.

Mr. Swe (Myanmar): Myanmar joined the overwhelming majority of Member States in voting in favour of the resolution just adopted, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

Myanmar adheres to the five principles of peaceful coexistence, which are the cornerstone of our foreign policy. It is our strong belief that peace, security and stability can be promoted only through mutual respect, peaceful coexistence and non-interference in the internal affairs of other countries.

The embargo imposed on Cuba not only runs counter to the purposes and principles enshrined in the Charter of the United Nations, it also violates the fundamental principle of the sovereignty, equality and right to development of the peoples of all nations. Furthermore, the promulgation and application by the United States of extraterritorial laws and regulations that affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and freedom of trade and navigation violate universally accepted principles of international law.

My delegation strongly feels that the United States should heed the call by the international community and immediately put an end to the embargo against Cuba. The embargo does not in any way promote peace and stability in the region but instead has serious negative impacts on the social, political and economic development of the people of Cuba. My delegation therefore voted in favour of the resolution.

Mr. Rachkov (Belarus) (*spoke in Russian*): The General Assembly is once again discussing the question of the imposition on Cuba of an economic, commercial and financial embargo. Once again, here in this Hall, we have seen virtually unanimity regarding the necessity of ending the embargo and lifting the restrictions, which are damaging the vital interests of the people of Cuba and are indeed inhumane.

Belarus opposes the sanctions and the unilateral coercive measures imposed against Cuba. The sanctions are particularly inappropriate at a time when humankind is grappling with a number of global problems. The financial crisis, the resulting decline in economic development and the fact that the sustainable development of States is increasingly dependent on a wide range of factors, from building a just system of international trade to overcoming climate change, means that we must jointly face these challenges and counter them. In this new global context, there is no place for unilateral sanctions. By voting in favour of the resolution just adopted, we are calling on the United States to put an end to the embargo against the Republic of Cuba, an embargo that has been condemned by the international community.

Ms. Espinosa (Ecuador) (*spoke in Spanish*): We would like to state very briefly that we align ourselves with the statements made on behalf of the Group of 77 and China, the Non-Aligned Movement and the Common Market of the South and associated States.

My delegation voted in favour of the resolution on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, in keeping with the principles of international law, the United Nations Charter and the recommendations adopted by the General Assembly.

The Government and the new constitution of Ecuador condemn the imposition of unilateral coercive measures, reject the threat or use of force to solve disputes and defend the principles of multilateralism, non-intervention and the peaceful settlement of

disputes. With that vote, Ecuador would like to reiterate its commitment to defending those principles and express its solidarity with the people of Cuba, whose most basic rights are being violated. Ecuador appeals to our common reason and intelligence to put an end to the blockade against Cuba. We feel that it is not only a violation of international law but also an attack on the human rights, dignity, freedom and happiness of the Cuban people.

Mr. Ja'afari (Syrian Arab Republic) (*spoke in Arabic*): My delegation too would like briefly to echo the statements made by the representative of Antigua and Barbuda on behalf of the Group of 77 and China and the representative of Egypt on behalf of the Non-Aligned Movement. The text of our complete statement will be available to delegations; I will now deliver a summary of that text.

Despite repeated appeals by the General Assembly over the past 16 consecutive years, the Government of the United States of America has thus far done nothing to comply with the wishes of the international community. It deliberately and stubbornly maintains its misguided position, disregarding the just demands of the international community. In addition, the authorities of the United States of America have introduced new measures to tighten the blockade against Cuba, a sovereign and independent State.

The behaviour of the United States and the measures it has taken are detrimental to the independence, sovereignty, unity and territorial integrity of Cuba and constitute a direct threat to the stability of the region and a blatant threat to international peace and security.

In accordance with its jurisdiction, the Assembly is duty-bound to take the necessary measures to put an end to the economic sanctions, the embargo and the antagonist policies of the United States against its immediate geographical neighbours and against other, more distant States.

In that connection, my delegation hopes that the embargoes imposed by the United States of America against Cuba and against numerous other States, including my country, the Syrian Arab Republic, will be lifted. We also hope that the United States of America will respect the voice of the international community as expressed here in the Assembly and that the institutions and other entities of that country will abide by the wishes of the international community in

full. We therefore voted in favour of the resolution just adopted.

It was striking to note Israel's anomalous vote against the resolution just adopted, which was backed by the overwhelming majority of Member States. Israel's vote against the overwhelming majority is proof that it, too, pays no heed to international law and is part of an isolated minority in the international community. Israel's vote was highly detrimental to the United States of America.

Successive United States policies since the imposition of the unjust blockade on Cuba have used a variety of creative means to violate international law. These have taken on dangerous dimensions, due to the inconsistency of the mechanisms governing international relations in dealing with misguided United States policies towards the peoples and countries of the world. An inability to make use of established accountability mechanisms does not mean that history will fail to hold the United States of America responsible for its misguided decisions, which are in violation of international law. These include military invasions of States; changing Governments by force; fabricating internal disturbances in countries to pressure their Governments; arming aggressors; imposing unjust blockades and unilateral economic sanctions against States; conducting trials and establishing mobile prisons and detention centres outside the framework of international law; and committing flagrant acts of aggression against the borders of other States, including my country, the Syrian Arab Republic.

The question is: are those misguided American practices in conformity with the noble principles of the founding fathers and past leaders of the United States of America, such as George Washington, John Adams, Abraham Lincoln and Woodrow Wilson? I leave the answer to be given by American officials.

Mrs. Juul (Norway): Norway considers the United States embargo against Cuba to be fundamentally a bilateral issue. We support sanctions when they are adopted by the international community through the United Nations. But we cannot support the extraterritorial extension of unilateral measures against a third country. Therefore, we cannot accept that unilateral measures imposed by the United States should determine Norway's relations with Cuba.

Norway is encouraged by some positive developments in the area of human rights in Cuba. Cuba recently signed the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. The visit of the United Nations Special Rapporteur on the right to food is a positive step. We particularly welcome the commutation of death sentences to prison sentences.

Nevertheless, Norway remains concerned about the protection and promotion of human rights in Cuba. We also reiterate our call on the Cuban Government to grant freedom of expression and free access to information.

Norway does not consider isolation to be an appropriate response to the developments in Cuba. More can be achieved through a constructive dialogue with the Government of Cuba. Moving forward, Norway intends to contribute to such a dialogue.

For those reasons, Norway just voted — as in previous years — for the resolution just adopted.

Mr. Butagira (Uganda): As it has consistently done in the past, my delegation voted in favour of the resolution opposing the economic, commercial and financial embargo against Cuba. It has gone beyond a bilateral matter. The embargo is unjustified. It has had an adverse impact on the people of Cuba for too long.

Furthermore, we do not support unilateral measures with extraterritorial application, which we believe are inconsistent with the principles of the Charter of the United Nations, international law and humanitarian law.

The President (*spoke in Spanish*): We have now heard the last speaker in explanation of vote.

Once again we, the international community, the entire world, the representatives of "we the peoples", in whose names the United Nations was founded, have expressed our rejection of the illegal and criminal blockade imposed on Cuba, a heroic country of

unfailing solidarity. We have also heard many statements of respect and appreciation for our brother Fidel Castro and all his noble people.

As President of the General Assembly, it is up to me, *inter alia*, in all times and in all places to defend the letter and the spirit of our Charter, taking into account the fact that the cause of peace obliges all of us to respect and enforce respect for the principles and standards set out in the Charter. There is nothing more counter to the spirit and letter of the Charter than the blockade maintained by the United States against Cuba. The blockade against Cuba, which has so rightly been repudiated and condemned with a unanimity from which it seems only the aggressor is excluded, must be ended once and for all.

In view of recent events in Cuba and the damage caused by Hurricane Ike, which hit the island right after Hurricane Gustav, maintaining that blockade, in addition to all that has been said already on the subject, is clearly an act of extreme cruelty. Cuba deserves all our respect, our love and our solidarity.

I pray that our dear brothers and sisters who have insisted on maintaining that criminal blockade against Cuba at all costs will find within themselves the moral strength to set themselves free from this unwholesome stubbornness and will then be able to put an immediate end to the blockade.

To Fidel, who is undeniably a hero of international solidarity, and to all the wonderful people of Cuba, I express our unwavering respect and solidarity. We will do everything possible — and impossible — to ensure that the overwhelming opinion manifested here in the United Nations is no longer flouted. Viva Cuba!

May I take it that it is the wish of the Assembly to conclude its consideration of agenda item 19?

It was so decided.

The meeting rose at 1.20 p.m.



General Assembly

Sixty-third session

34th plenary meeting

Thursday, 30 October 2008, 10 a.m.
New York

Official Records

President: Mr. D'Escoto Brockmann (Nicaragua)

The meeting was called to order at 10.20 a.m.

Agenda item 7 (continued)

Organization of work, adoption of the agenda and allocation of items

Second report of the General Committee (A/63/250/Add.1)

The President (*spoke in Spanish*): In the first paragraph of its report, the General Committee decided to recommend to the General Assembly that an additional item entitled "Recognition of sickle-cell anaemia as a public health priority" be included in the agenda of the current session under heading B, "Promotion of sustained economic growth and sustainable development in accordance with the relevant resolutions of the General Assembly and recent United Nations conferences".

May I take it that the General Assembly decides to include that item in the agenda of the current session under heading B?

It was so decided.

The President (*spoke in Spanish*): In paragraph 1 (b), the General Committee further recommends that the item be considered directly in plenary meeting. May I take it that the General Assembly decides to consider that item directly in plenary meeting?

It was so decided.

The President (*spoke in Spanish*): I should like to inform members that the item entitled "Recognition

of sickle-cell anaemia as a public health priority" becomes item 155 on the agenda of the current session.

In paragraph 2 (a) of the report, the General Committee recommends to the General Assembly that an additional item entitled "Granting of observer status for the International Fund for Saving the Aral Sea in the General Assembly" be included in the agenda of the current session under heading I, "Organizational, administrative and other matters". May I take it that the General Assembly decides to include that item in the agenda of the current session under heading I?

It was so decided.

The President (*spoke in Spanish*): In paragraph 2 (b), the General Committee further recommends that the item be allocated to the Sixth Committee. May I take it that the General Assembly decides to allocate the item to the Sixth Committee?

It was so decided.

The President (*spoke in Spanish*): I should like to inform Members that the item entitled "Granting of observer status for the International Fund for Saving the Aral Sea in the General Assembly" has become item 156 of the agenda of the current session.

The Chairman of the Sixth Committee will be informed of the decision just taken by the General Assembly.

In paragraph 3 of the same report, the General Committee recommends to the General Assembly that item 58 entitled "Report of the Human Rights Council"

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.



be considered in plenary meeting as well as in the Third Committee, on the understanding that the Third Committee would consider and act on all recommendations of the Human Rights Council to the General Assembly, including those that deal with the development of international law in the field of human rights, without prejudice to the right of Member States to present draft resolutions and decisions on all issues considered in the report.

Taking into account this recommendation, the General Assembly, in plenary meeting, will consider the annual report of the Human Rights Council on its activities. It is also understood that the current arrangement is in no way a reinterpretation of resolution 60/251 and will be reviewed before the beginning of the sixty-fourth session of the General Assembly.

May I therefore take it that the General Assembly approves that recommendation?

It was so decided.

The President (*spoke in Spanish*): The Chairman of the Third Committee will be informed of the decision just taken by the General Assembly.

The General Assembly has thus concluded its consideration of the second report of the General Committee.

Agenda item 66

Report of the International Court of Justice

Report of the International Court of Justice (A/63/4)

Report of the Secretary-General (A/63/229)

The President (*spoke in Spanish*): May I take it that the General Assembly takes note of the report of the International Court of Justice?

It was so decided.

The President (*spoke in Spanish*): In connection with this item, the Assembly also has before it a report of the Secretary-General on the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, which has been circulated in document A/63/229.

I call upon Ms. Rosalyn Higgins, President of the International Court of Justice.

Ms. Higgins: I am pleased to address the General Assembly today under the presidency of His Excellency Father Miguel d'Escoto Brockmann, senior adviser on foreign affairs of Nicaragua. I warmly congratulate you, President D'Escoto, on your election as President of the Assembly at its sixty-third session and wish you every success in that Office.

This is the third time that I have had the privilege of addressing the General Assembly on the occasion of its consideration of the report (A/63/4) of the International Court of Justice. The current report covers the period 1 August 2007 to 31 July 2008, a period of intense judicial activity.

All 192 United Nations Members are, of course, ipso facto parties to the Court's Statute. Of those, 66 have accepted the compulsory jurisdiction of the Court in accordance with article 36, paragraph 2, of the Statute. In addition, some 128 multilateral conventions and 166 bilateral conventions envisage that the Court will be resorted to for the settlement of disputes arising from their application or interpretation.

For the past two years, I have reported to the Assembly on the working methods that the Court has been applying to maximize its throughput — dealing with always more than one case at a time, producing judgments in a timely fashion while never sacrificing quality, and clearing the backlog of cases ready for oral hearing. By applying those working methods, the Court has been able to manage a very full schedule of cases as well as to be in a position to respond swiftly to unanticipated requests for the indication of provisional measures.

Last year I informed the Assembly that the Court had had a very productive year. This year I can inform the Assembly that the Court has had the most productive year in its history. It has handed down four substantive judgments and one order, on a request for the indication of provisional measures. Another order for provisional measures was given just two weeks ago, falling technically outside of the period covered by the annual report but, of course, within the calendar year. Furthermore, in that reporting period, the Court has held hearings in four cases.

First, in December, it heard oral argument on the merits in the case concerning sovereignty over *Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, delivering its Judgment in May. Secondly, in January, the Court completed

hearings in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)* and issued its Judgment in June. Thirdly, in May, the Court heard oral argument on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*. That Judgment is now under preparation. Fourthly, in June, the Court held hearings on a request for the indication of provisional measures submitted by Mexico within the context of a *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America)*. The Court issued its Order on provisional measures one month later. The Court is currently deliberating on the underlying request for interpretation.

In addition, in September, the Court held hearings on the merits in the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*. That case is under deliberation as well. In August, we received a new case, submitted by Georgia, concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*. Georgia also requested provisional measures. Since the Court's Statute provides that such requests have priority over all other proceedings, the Court held hearings in September and issued its Order on provisional measures two weeks ago.

The cases we have decided in the past year have involved States from every United Nations regional group: Asia, Africa, Western Europe, Eastern Europe, North America and Latin America. The Court thus manifestly remains the court of the entire United Nations. The universal character of the Court is also reflected in the subject matter of the past year's cases, which has ranged from human rights to territorial sovereignty to mutual legal assistance to maritime delimitation to interpretation of an earlier Judgment.

In the past year, five new cases were submitted to the Court: *Maritime Dispute (Peru v. Chile)*; *Aerial Herbicide Spraying (Ecuador v. Colombia)*; the *Request for Interpretation between Mexico and the United States*, the *Georgia v. Russian Federation* case and the Assembly's request for an advisory opinion on the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo. The current number of cases on the docket stands at 14.

Today, as is traditional, I will report on the judgments rendered by the International Court during the reporting period. I will also briefly address the Order on provisional measures issued two weeks ago. I shall deal with the decisions in chronological order.

In October 2007, the Court handed down its Judgment in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, the hearings of which had been held in March 2007. The dispute concerned the maritime boundary between the two countries, as well as sovereignty over four cays in the Caribbean Sea. In respect of sovereignty over the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay, located in the area in dispute, the Court concluded that it had not been established that either Honduras or Nicaragua had title to those islands by virtue of *uti possidetis juris*. Having then sought to identify any post-colonial *effectivités*, the Court found that sovereignty over the islands laid with Honduras, as it had shown that it had applied and enforced its criminal and civil law, had regulated immigration, fisheries activities and building activity, and had exercised its authority in respect of public works there.

As for the delimitation of the maritime areas between the two States, the Court found that no established boundary existed along the fifteenth parallel on the basis of either *uti possidetis juris* or a tacit agreement between the parties. It therefore determined the delimitation itself. In view of the particular geographical circumstances of the area, it was impossible for the Court to follow the preferred practice of establishing an equidistance line. The Court thus drew a bisector — that is to say, the line formed by bisecting the angle created by the linear approximations of the coastlines. The bisector method provided the delimitation line with greater stability, as it was less affected by the changing nature of the particular coastline.

It also greatly reduced the risk of error. The Court adjusted the course of the line to take account of the territorial seas around the islands. The Court fixed the starting point of the bisector at a distance of three nautical miles out to sea from an agreed point. The Court instructed the parties then to negotiate in good faith with a view to agreeing on the course of a line between the present agreed endpoint of the land boundary and the starting point of the maritime boundary thus determined. In respect of the endpoint of

the maritime boundary, the Court stated that the line which it had drawn continued until it reached the area where the rights of certain third States might be affected.

In December 2007, the Court decided another case involving Nicaragua: *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. This time, the case was at the stage of preliminary objections. After careful consideration of the parties' arguments, the Court found that the treaty signed by Colombia and Nicaragua in 1928 settled the issue of sovereignty over the islands of San Andrés, Providencia and Santa Catalina within the meaning of the Pact of Bogota, invoked by Nicaragua as a basis of jurisdiction in the case. There was no extant legal dispute between the parties on this question and the Court could not therefore have jurisdiction on that point. On the other hand, as regards the question of the scope and composition of the rest of the San Andrés archipelago, the Court considered that the 1928 treaty failed to provide answers as to which other maritime features formed part of the archipelago.

The Court thus held that it had jurisdiction under the Pact of Bogota to adjudicate on the dispute regarding sovereignty over those other maritime features. As for its jurisdiction with respect to the maritime delimitation area, the Court concluded that the 1928 treaty and its 1930 protocol had not effected a general delimitation of the maritime boundary between Colombia and Nicaragua and that, as the dispute had not been settled within the meaning of the Pact of Bogota, the Court had jurisdiction to adjudicate upon it. The Court thus upheld Colombia's preliminary objections to its jurisdiction only insofar as they concerned sovereignty over the islands of San Andrés, Providencia and Santa Catalina. The Court has now set time limits for the filing of the written pleadings on the merits.

In May 2008, the Court, sitting under the presidency of the Vice-President, delivered its judgment in a further case involving sovereignty over maritime features, this time involving two States from Asia which had come to the Court by special agreement: *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. The Court first indicated that the Sultanate of Johor, Malaysia's predecessor, had had original title to Pedra Branca/Pulau Batu Puteh, a granite island on which Horsburgh lighthouse stands. It concluded,

however, that, by the date when the dispute crystallized, 1980, title had passed to Singapore, as attested to by the conduct of the parties, in particular certain acts performed by Singapore *à titre de souverain* and Malaysia's failure to react to Singapore's conduct.

The Court consequently awarded sovereignty over Pedra Branca/Pulau Batu Puteh to Singapore. As for Middle Rocks, a maritime feature consisting of several rocks that are permanently above water, the Court observed that the particular circumstances which had led it to find that sovereignty over Pedra Branca/Pulau Batu Puteh rested with Singapore clearly did not apply to Middle Rocks. It therefore found that Malaysia, as successor to the Sultanate of Johor, should be considered to have retained original title to Middle Rocks. Finally, with respect to the low-tide elevation South Ledge, the Court noted that it fell within the apparently overlapping territorial waters generated by Pedra Branca/Pulau Batu Puteh and by Middle Rocks. Recalling that it had not been mandated by the parties to delimit their territorial waters, the Court concluded that sovereignty over South Ledge belonged to the State in whose territorial waters it lies.

After this series of territorial and maritime disputes, the Court delivered a judgment in June in a completely different type of case: *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)*. This was the first occasion it fell to the Court to pronounce on a dispute brought before it by an application based on article 38, paragraph 5, of the Rules of Court — *forum prorogatum*. This, of course, is when a State submits a dispute to the Court, proposing to found the Court's jurisdiction upon consent yet to be given or manifested by the State against which the application is made. So it will, I think, attract much attention in the world of international law for that reason alone.

In this case, France did give its consent in a letter to the Court, specifying that this consent was

"valid only for the purposes of the case, within the meaning of Article 38, paragraph 5, i.e. in respect of the dispute forming the subject of the Application and strictly within the limits of the claims formulated therein"

by Djibouti. The parties disagreed as to exactly what France had agreed to. Reading Djibouti's application together with France's letter, the Court determined the

extent of the mutual consent of the parties and resolved that problem.

The dispute before the Court concerned whether France had violated its obligations under the 1986 European Convention on Mutual Assistance in Criminal Matters. In that Convention, judicial cooperation is envisaged, including the requesting and granting of letters rogatory — usually the passing, for judicial purposes, of information held by a party. The Convention also provided exceptions to that envisaged cooperation. A key question was — given that at the end of the day the French judicial authorities declined to pass the requested case file — whether that refusal fell within the permitted exceptions.

Also at issue was whether France had, in other regards, complied with different provisions of the 1986 Convention. The Court held that the reasons given by the French investigating judge for refusing the request for mutual assistance fell within the scope of article 2(c) of the Convention, which entitles the requested State to refuse to execute a letter rogatory if it considers that execution is likely to prejudice its sovereignty, its security, its *ordre public* or other of its essential interests. The Court did, however, conclude that, as no reasons were given in the letter whereby France informed Djibouti of its refusal to execute the letter rogatory, France had failed to comply with its international obligation under article 17 of the 1986 Convention to provide reasons.

In addition to those substantive judgments, the Court has pronounced on two requests for provisional measures. In July, the Court ruled on a request for the indication of provisional measures submitted by Mexico against the United States in connection with its *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America)*.

In its order, the Court stated that the United States was to take "all measures necessary" to ensure that five Mexican nationals "are not executed pending judgment on the Request for interpretation" submitted by Mexico, "unless and until [they] receive review and reconsideration consistent with paragraphs 138 to 141 of the Court's [Avena] Judgment". The Court also held that the United States was to inform it of "the measures taken in implementation" of the order. The underlying request for interpretation is under deliberation and the Court will be issuing a decision in the near future.

A further request for an order on provisional measures came to the Court on 14 August 2008 in connection with the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*. The next day, acting in accordance with the powers conferred by article 74, paragraph 4, of the rules of Court, I addressed an urgent communication to the parties, calling upon them "to act in such a way as will enable any order the Court may take on the request for provisional measures to have its appropriate effects".

The Court held three days of hearings in September and issued its Order two weeks ago, requiring both parties to, inter alia, do all in their power to ensure the security of persons, the right of persons to freedom of movement and residence and the protection of property of displaced persons and of refugees. The parties are also called upon to facilitate humanitarian assistance.

In February 2009, the Court's composition will change when the new members, elected by the General Assembly and Security Council voting simultaneously, will take their place on the bench. Until that time, we are working hard on the preparation of our judgments in the *Croatia v. Serbia*, *Mexico v. United States of America* and the *Romania v. Ukraine* cases. I am also glad to inform the Assembly that the Court has decided to open hearings in early March 2009 in the *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*. Later in the year, we will hold hearings in the case concerning *Pulp Mills on the River Uruguay (Argentina v. Uruguay)* and we will certainly be giving appropriate attention to the Assembly's recent request for an advisory opinion on whether the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo was in accordance with international law. On 17 October, we already issued an Order relating to procedural steps in that matter.

It will be recalled that last year I informed the Assembly that, due to a prodigious effort, we had cleared the backlog of cases that had built up over the years, and I am pleased to report that the backlog remains clear. States thinking of coming to the Court can be confident that as soon as they have finished their written exchanges, we will be able to move to the oral phase in a timely manner.

Last year, the Court requested the creation of nine law clerk posts, a post for a senior legal officer in the Department of Legal Matters and a temporary post of indexer/bibliographer in the Library for the 2008-2009 biennium. While the latter two posts were granted, for which the Court is grateful to the General Assembly, only three of the nine law clerk posts were approved. Yet they remain as necessary as ever in order to enable each judge to benefit from personalized legal support for research, fact analysis and management of the case file. The situation remains that the International Court of Justice is the only major international court or tribunal which does not have one law clerk assigned to each judge. The pace of work of the Court which has made it possible, with difficulty, to ensure that States obtain justice without unreasonable delay, cannot be sustained without such assistance.

In its budget submission for the 2010-2011 biennium, the Court will therefore reiterate its request for the creation of the six law clerk posts that have yet to be granted to it. Further, the Court would note that the General Assembly has unfortunately not provided it with the means to create an effective documents division by merging the Library and the Archives Division, as we had been advised to. It will therefore resubmit the request for a post reclassification, which by itself would enable the Court to implement the merger for the sake of greater productivity.

The Court will also be requesting certain additional new posts. It will seek funds for the replacement and modernization of the conference systems and the audio-visual equipment in its historic courtroom, the Great Hall of Justice, which will be renovated in cooperation with the Carnegie Foundation, the owner of the Peace Palace. The amount requested will also cover the installation of the most up-to-date information technology on the judges' bench and the tables occupied by the parties to cases. That technology is essential to enhancing communication among the judges and the parties during the oral hearings. It will facilitate the immediate sharing of data and documents and the clear display of maps and images relevant to the case. The objective is to make the Great Hall of Justice a courtroom that serves the professional needs of those who use it, bench and bar. No court today can operate without those electronic facilities. The principal judicial organ of the United Nations cannot work as a court with archaic facilities. It is all part and parcel of greater efficiency.

Under article 31 of the Statute, a party to a dispute before the Court, when no judge of that nationality is sitting on the bench, is entitled to nominate a judge ad hoc to serve in full equality for the duration of that case.

Our heavy docket, combined with the wide array of States using the Court, means there has been a very substantial take up of that possibility. In relation to the current docket, the Court has 20 judges ad hoc. Over the past six years we have had 40 judges ad hoc. Of course, they perform admirable service while at the Court. They receive the comparable daily rate of a regular judge for all work, together with travel and lodging. Judges ad hoc now represent 2 per cent of the Court's annual budget, and offices and secretarial support are also required for them.

In the *Kasikili/Sedudu Island (Botswana/Namibia)* case of 1999, neither party had a national on the bench and they informed the Court that they had jointly agreed not to appoint a judge ad hoc each, both having full confidence in the Court as constituted in its regular membership. Given the increasing percentage of International Court costs associated with judges ad hoc, the Court believes that where two States appear before it, neither of which has a national on the Bench, they might want to give very careful consideration to what I will term the Botswana/Namibia model.

I take this opportunity to note with appreciation the decision of the General Assembly to meet the concerns expressed by the Court during the year under review with regard to resolution 61/262. The Court is grateful to the Assembly for having resolved that matter by its decision 62/547 of 3 April 2008. The principle of equality among judges, which is enshrined in our Statute and which, in turn, is annexed to the United Nations Charter, is central to our function as the principal judicial organ of the United Nations. We are pleased to see that it has now been reaffirmed.

The Court finds it of great importance that the proposed pension scheme for judges in service and for retired judges and their dependents should not lead to a decrease in real terms. If, without further adjustments being in place, the pension would be calculated on the basis of the annual net base salary, excluding post adjustment, a decrease in real terms would ensue. In addition, the Court notes that, notwithstanding its repeated requests on this point, no mechanism is yet in operation to adjust effectively for cost-of-living

increases and fluctuations in the value of the United States dollar. It therefore foresees the possibility of a further significant decline in the years ahead of the purchasing power of retired judges and their surviving spouses, in particular those residing in the euro zone. The Court is counting on the understanding of the General Assembly as to those points.

The sheer number and variety of cases that have been entrusted to the International Court during the period under review affirm its role as the Court of the United Nations. Whether it is a complex case on maritime delimitation with thousands of pages of pleadings or an urgent request for provisional measures concerning an ongoing conflict, States are turning to the International Court for the peaceful settlement of their disputes. The Court greatly values the trust placed in it by the Members of the United Nations and, as always, stands ready to play its role in attaining the cardinal principle of the Charter, the maintenance of international peace and security.

The President: I thank Judge Rosalyn Higgins, President of the International Court of Justice, for her excellent and comprehensive report. I think that we all agree that the world Court is one of the organs of the United Nations about which we have every right to feel very proud. I hope that we will find it within our means to provide the support that Judge Higgins has requested with regard to a few lawyers to assist the judges. They are short-handed and the amount of work, as the Assembly has heard, is really immense. Once again, I thank Judge Rosalyn Higgins.

Mr. Morrill (Canada): On behalf of Canada, Australia and New Zealand (CANZ), I would like to thank the President of the International Court of Justice, Judge Rosalyn Higgins, for her excellent report (A/63/4) on the work of the Court over the past year.

CANZ continues to strongly support the Court in its role as the principal judicial organ of the United Nations. The diversity of cases before the Court, in both subject matter and geographic circumstances, demonstrates the universal character of the Court as well as the unique role it plays in international justice. We see that the cases referred to the Court are growing in factual and legal complexity and continue to include cutting-edge issues. CANZ appreciates that the significant workload of the Court requires it also to juggle urgent requests for indication of provisional measures while maintaining the forward momentum of

other cases, including the consideration of preliminary matters.

Mr. Tanin (Afghanistan), Vice-President, took the Chair.

As we review the status of the Court for this year, we see that once again the International Court has a full caseload, with 14 cases formally pending. During the past judicial year, the Court handed down four judgments and one order on a request for the indication of provisional measures, and held hearings in four cases.

CANZ notes that the Judgment in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France)* is one of the few to have been decided by the Court on the basis of *forum prorogatum*, whereby the jurisdiction of the Court is founded on the conduct of the respondent State in relation to a unilateral application by another State.

CANZ appreciates the ongoing efforts made by the Court to increase its efficiency and sustain its increased workload. CANZ also welcomes the increased public accessibility to the work of the Court through its enhanced website, which now includes the entire jurisprudence of the Court as well as of its predecessor, the Permanent Court of International Justice. We recognize that, for the Court to continue the consideration of several cases at the same time, regular replacement and modernization of technological systems and equipment is required.

(spoke in French)

We also know that the Court has a very full agenda for the year ahead, as States continue to reaffirm their confidence in the Court's ability to resolve their disputes. In that regard, we note that the Court has already received two cases in the current judicial year, including the request by the General Assembly for an advisory opinion on Kosovo's unilateral declaration.

(spoke in English)

CANZ welcomes the vital role of the International Court of Justice in the peaceful settlement of international disputes and in strengthening the international legal order as mandated by the Charter of the United Nations. Wider acceptance of its compulsory jurisdiction enables the Court to fulfil its

role more effectively. Accordingly, we continue to urge Member States that have not done so to deposit with the Secretary-General of the United Nations a declaration of acceptance of the Court's compulsory jurisdiction.

Finally, CANZ would also like to take this opportunity to express our deep appreciation and thanks to Judge Rosalyn Higgins for her tremendous leadership and contribution to the development of international law through her work as Judge and President of the International Court of Justice. We wish her well in her future endeavours.

Ms. Defensor-Santiago (Philippines): As this is the first time that I take the floor during the current session, allow me to convey my warmest felicitations to the President on his well-deserved election. I convey the same sentiments to the Vice-Presidents, whose role the President has made visible through effective teamwork and the sharing of responsibilities. With his dedication, commitment and spiritual zeal, and guided by the theme he has chosen for the sixty-third session, his stewardship will be crowned with achievements despite the grave crises the world is facing today.

On behalf of the delegation of the Republic of the Philippines, I am honoured and privileged to address the General Assembly during its consideration of the report of the International Court of Justice for the period 1 August 2007 to 31 July 2008. Before turning to the report, my delegation wishes to commend Judge Rosalyn Higgins, President of the International Court of Justice, for her dedicated stewardship of the Court. Her term will end on 5 February 2009 and she will, no doubt, leave a legacy that will further enhance the prestige and integrity of the Court. Her appointment as the first woman member of the Court was itself an historic and significant event and we urge all Member States to ensure that we maintain in the Court a policy of gender balance.

My delegation commends the efforts of the Court to increase its efficiency, including the regular re-examination and review of its procedures and working methods. These efforts have led to the successful conduct of four hearings and the promulgation of an order on a request for the indication of provisional measures and have enabled the conduct of oral proceedings in the case concerning the maritime delimitation in the Black Sea (Romania v. Ukraine) for the judicial year 2008-2009.

My delegation also commends the International Court of Justice for the speed with which it acted on the request submitted by Georgia for the indication of provisional measures in the case concerning the application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), as well as on the latest request of the General Assembly for an advisory opinion contained in resolution 63/3, dated 8 October 2008, on the question of whether or not the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo is in accordance with international law.

My delegation has also taken due note of how the General Assembly has contributed to sustaining the efforts of the Court aimed at streamlining its working methods and making them more efficient by providing the much-needed additional posts in the Court's Registry. The General Assembly's response, in its resolution 61/262, to the Court's concerns regarding conditions of service of members of the Court that could lead to inequality and inequity, was also favourable in this regard. The Philippines reiterates its call for United Nations Member States to continue to provide the Court with the necessary means to ensure its proper, effective and efficient functioning.

The variety of cases pending before the Court, involving issues or controversies between States in Europe, Latin America and Africa, truly reflects the universality of the International Court of Justice. The Philippines again registers its approval of the work done by the Court aimed at making its decisions more widely accessible to the public through the effective use of the worldwide web. Making these decisions more widely known will help strengthen the foundations of, and enhance respect for, the rule of law and promote its effective implementation.

The complexities of living in an increasingly interdependent world indicate quite clearly the need to rely on the rule of law. The cases that are brought before the International Court of Justice demonstrate the reality that, though territorial disputes are still the staple of the Court, other complex or emerging issues, such as allegations concerning massive human rights violations or the management of shared natural resources as a consequence of global interdependence, are now also being handled by the Court.

The formal regime of *jus ad bellum* is long past, but the new millennium has ushered in a reality of armed conflicts that demands our serious attention to ethnic and religious differences. The civil strife and social cleavages that are involved in those conflicts represent the new challenges to international public order, enhancing the qualitative importance of international humanitarian law, which the Court itself has referred to as "*lex specialis*" in parallel application with international human rights law.

The past few years have witnessed a steady rise in the number of States, entities and even individuals resorting to specialized tribunals and forums in an attempt to cope with the demands of increasing interdependence. My delegation views this development not as a decline in confidence in the authority of the International Court of Justice to adjudicate contentious legal issues, but as an increase in the reliance on the rule of law as a bulwark against brutal force and war. Indeed, this development is a visible demonstration of people's faith in and respect for the rule of law, which the International Court of Justice has unceasingly helped to propagate. In this regard, the Philippines is counting on the Court's norm-elucidation function to provide the basic framework of case law and norms for the guidance of these specialized tribunals: a harmony of jurisprudence in general international law.

The Philippines once again strongly affirms its unconditional support for the work of the International Court of Justice and the invaluable role it plays in promoting an international legal order founded on the primacy of the rule of law and the peaceful settlement of disputes. As the principle judicial organ of the United Nations and, therefore, as the report under consideration states, the only international court of a universal character with general jurisdiction, the Court is the primary institution invested with the duty and responsibility to ensure respect for the rule of law in international relations.

In short, the increased workload of the Court heralds an increasing trust and confidence in the supremacy of the International Court of Justice to strengthen the rule of law, its universality and general jurisdiction. These are salient features that augur well for the future of the Court in particular and for a more peaceful and secure world in general.

Mr. Voto-Bernales (Peru) (*spoke in Spanish*): I would like to thank the President of the International Court of Justice, Rosalyn Higgins, for being with us this morning and for her interesting and detailed presentation on the work carried out by the Court over the past year. Once again, I am happy to congratulate her on her competence and leadership, which bolster the high prestige enjoyed by the International Court of Justice.

Article 1 of the Charter of the United Nations established that States must seek to bring about the settlement of international disputes by peaceful means and in conformity with the principles of justice and international law. This means then that the peaceful settlement of disputes is established as a general principle of international law, whereby States must abstain from the use or threat of force. To bring these principles into effect, the International Court of Justice was established; its Statute is integral to the Charter of the United Nations. The Court is the only international body of a universal character with general jurisdiction. Its judgments put an end to legal disputes brought before it by States and help to build international peace. Furthermore, through its advisory opinions, the Court contributes to the development of international law and to upholding of the rule of law. The juridical quality of its decisions, as well as its independence and impartiality, has earned the Court a great legitimacy. The proof is in the fact that, despite the sensitive nature of the disputes put before it — such as questions of territorial limits, the exercise of jurisdiction and the system of immunities, among others — States have preferred to resort to the Court for the definitive resolution of those disputes.

Peru's commitment to the work of the International Court of Justice is included in the 1948 American Treaty on Pacific Settlement — the Pact of Bogotá — whereby States parties agreed to always seek peaceful means of resolving disputes, among which is recourse to the Court. Peru has also recognized, in accordance with paragraph 2 of Article 36 of the Statute of the Court, its contentious jurisdiction.

Consequently, Peru believes it is of the greatest importance that the jurisdiction of the Court be universally accepted. In this regard, we appeal to States that have not yet done so to accept the Court's compulsory jurisdiction in contentious cases. We States are obligated to comply with the Court's decisions.

Peru, as a State that respects the international legal order, reiterates its commitment to fulfil its obligations flowing from the Statute of the Court and urges other States to comply with its decisions.

With regard to the contentious cases, the Court has had a heavy load in the past year, with the presentation of four new cases, in one of which Peru is a party. In this session, the General Assembly has also submitted a request for an advisory opinion. In addition to those new tasks, there are the cases pending, as well as the requests for provisional measures already submitted.

In affirming our full support for the Court, we should at the same time recognize the distinguished work of its judges. It is not only their high legal abilities that stand out, but also their managerial abilities, as the measures adopted to review procedures and working methods have increased their efficiency.

It is also appropriate to highlight the outreach work that has been done, particularly with regard to the website. It is an invaluable tool allowing access to information about the Court's work. Peru trusts that the archives of audio-visual material of hearings will soon be included in the website.

States must ensure that the Court has sufficient resources to carry out the tasks entrusted to it. It must have the necessary legal support staff and the means enabling it to manage the documentation required for its daily work. That will enable the Court to quickly resolve the disputes before it and to issue advisory opinions for the benefit of the international community. In this regard, Peru supports, with complete conviction, the reasonable requirements set out by the Court's President, Judge Rosalyn Higgins.

Finally, a matter which must not escape the concern of States is the high costs that a State must face in order to gain access to the Court. In some cases, those costs can be an impediment to access. That is why the establishment of a Trust Fund has enabled States to rely in part on financial assistance they need to carry out such a procedure. Peru therefore wishes to express its gratitude to those that have contributed to the fund and joins with the appeal of the Secretary-General to all States and bodies to cooperate with it.

Ms. Kumari Singh Deo (India): At the outset, we thank the President of the International Court of Justice, Judge Rosalyn Higgins, for her excellent

introduction of the report contained in document A/63/4. We welcome the opportunity to address the General Assembly on the report of the Court.

We commend President Higgins for her dedicated stewardship of the Court and for the Court's impressive achievements over the period under review. That will no doubt further enhance the international community's confidence in this unique organ of international law, which has made a distinctive contribution to the maintenance of international peace and security.

Over the last 60 years, the Court has dealt with a variety of legal issues. Its judgments have covered disputes concerning sovereignty over islands, navigational rights of States, nationality, asylum, expropriation, law of the sea, land and maritime boundaries, enunciation of the principle of good faith, equity and legitimacy of use of force.

The issues presently before the Court are equally wide ranging, and its judgments have played an important role in the progressive development and codification of international law. Despite the caution it has exhibited and the sensitivity it has showed to the political realities and sentiments of States, the Court has asserted its judicial functions and consistently rejected arguments to deny it jurisdiction on the ground that grave political considerations were involved in a case in which it otherwise found proper jurisdiction for itself. Thereby the Court clearly emphasized the role of international law in regulating inter-State relations, which are necessarily political.

The advisory function of the Court contributes to clarifying law and removing ambiguities, thus assisting the United Nations and its organs in carrying out the objectives of the Organization.

In recent years, the docket of the Court has grown significantly and it continues to enjoy universal support and respect. Another significant development that needs to be welcomed is that, unlike in the past, when the jurisdiction phases of cases occupied most of the Court's time, the Court is now being frequently called upon to deal directly with a diversity of complex substantive issues of international law from all regions of the world.

The year under review has been the most productive in the Court's history. It has handed down four substantive judgments and two orders on requests for the indication of provisional measures. Further, the

Court has held hearings in four cases and has three judgments under deliberation. That has been possible due to the streamlining of the procedures and internal working methods, which has led to scheduling of cases without significant delay. We appreciate the efforts of the Court to eliminate the backlog.

We also note that the Court's request for nine law clerk posts was not agreed to. We hope that the General Assembly will be able to approve that request, as such assistance is critical, given the increasing number of fact-intensive cases. Judges of all other tribunals enjoy that facility. The Court's request for individualized legal assistance for all its members is reasonable, and granting it would enable the Court to carry out its designated functions more efficiently as the principal judicial organ of the United Nations.

The recent period has witnessed the creation of a number of specialized regional and international courts and bodies. Along with that development have come concerns about the fragmentation of international law. There is apprehension that similar legal issues or disputes may well be subjected to final and binding interpretations by two different bodies, with potentially differing views.

There is also considerable apprehension that the expansion of the field has created problems not only of coherence, but also of priority between different dispute settlement procedures. The challenge is to find a balance between, on the one hand, the need for diversity and specialized regimes and solutions, and, on the other hand, the importance of maintaining an overall framework or system of international law that offers a sufficient degree of security and coherence. We welcome the initiative taken by the President of the Court aimed at regular dialogue between the international courts and tribunals and the exchange of information with a view to improving the unity of international law and addressing the problems of overlapping jurisdictions and the fragmentation of international law.

The Court's phenomenal docket explosion attests to the high standing of the Court not only in the United Nations system, but in the international community itself. It also represents an affirmation of faith in the Court.

President Higgins will soon be completing her term in the Court. We thank her immensely for her enormous and invaluable contributions to the work of

the Court and wish her the very best in her future endeavours.

Ms. Negm (Egypt) (spoke in Arabic): At the outset, I should like to express Egypt's appreciation to Judge Rosalyn Higgins, President of the International Court of Justice, for her valuable presentation of the report of the International Court of Justice (A/63/4) on its work over the past year. I should also like to reaffirm Egypt's conviction that the Court plays a central role in ensuring the implementation of the provisions of international law, in settling disputes between countries and in providing advisory opinions to countries and international organizations to assist them in carrying out their functions more effectively.

Since its establishment, the Court has promoted important principles and rules of public international law through its advisory opinions on the legality of the threat of use or the use of nuclear weapons and on the legal consequences of the construction of the separation wall in the occupied Palestinian territory, as well as its judgments related to land and maritime boundary disputes, opinions and judgments that contribute to the prevention of armed conflict throughout the world.

In that connection, the Egyptian delegation stresses the need to enhance the capacity of countries, the United Nations and its specialized agencies to request advisory opinions from the Court in important cases, because the Court's opinions develop and codify the rules of international law and consolidate the principles of justice and equality at the international level. Furthermore, their great moral and legal value assists in promoting international peace and security.

If the United Nations reform process is to be comprehensive and inclusive, it should include the International Court of Justice, which is one of the principal organs of the Organization. That would ensure that the Organization is effective and can meet the demands of today's world, in particular since the principle of the rule of law now prevails both in international relations and at the national level.

Although the 2005 World Summit Outcome (resolution 60/1) mandated the Member States to consider means of strengthening the Court's work, the United Nations has yet to discuss any initiatives or studies in that regard. Therefore, we should take a clear position and serious measures to enhance the Court's role and to make the best use of its legal capacities. For

its part, the Court should present its views on the advancement of its legal and judicial roles. In that connection, Egypt proposes that the General Assembly hold an informal interactive debate, led by its President and with the participation of the Court's President and Registrar, to identify the main problems preventing the Court from operating as efficiently as possible, as well as proposals to overcome those problems. Such a debate could take place after the Court has completed its ongoing review of its proceedings and working methods, as mentioned in paragraph 18 of the report.

In that context, the Egyptian delegation stresses the need to benefit from the Court's experiences in consolidating established law related to the responsibility of States to protect their citizens and respect international law, whether through diplomatic protection or consular relations, as well as abuse by States of the principle of universality of specialized jurisdiction, in contravention of the principle of the territoriality of national laws, and differentiation between legitimate military struggle in pursuit of the right of self-determination, on the one hand, and terrorism, on the other.

Furthermore, it is essential that the Court render advisory opinions on controversial issues arising from new ideas being discussed in the corridors of the United Nations, whether they concern human rights, control of natural resources or other issues being used as a pretext for interference in States' internal affairs, in violation of the principles of international law and the Charter of the United Nations. The Egyptian delegation expresses its appreciation for the Court's pioneering role in consolidating the principle of the rule of law.

The Egyptian delegation commends the steps taken by the Court to increase the efficiency of its work so that it can keep abreast of its constantly increasing workload. Egypt supports the Court's request for the creation of six new law clerk posts from the regular budget and for the resources needed to establish an effective documents division by merging the Library and Archives divisions. Egypt also supports the idea of providing the Office of the Registrar with the necessary resources and of modernizing the Court's technology to promote greater productivity. In addition, it is important that we effectively address the issues related to the pension scheme for current and retired judges. The Egyptian delegation will work with other countries in the Fifth Committee to meet those

demands, in particular because they have come at a time of increasing international efforts to enhance the Organization's role and capacity to carry out its mandate, in accordance with international legitimacy, to maintain the public international order, as agreed when the United Nations was established.

Finally, the Egyptian delegation expresses its gratitude to all the Court's judges, its Registrar and its employees for their efforts over the past year. We wish them every success in fulfilling the Court's aspired role in the future.

Mr. Amil (Pakistan): First, I would like to thank Her Excellency Judge Roslyn Higgins, President of the International Court of Justice, for the excellent report that she presented to the Assembly on the work of the Court during the past year (A/63/4). The report adequately covers matters related to the Court's functioning as well as substantive judicial issues related to the Court's work.

The need for the peaceful settlement of disputes could never have been felt more seriously than at the present time. It has been mandated by the development and progress of human society, as well as by the havoc wrought upon human society by the frequent use of force by State and non-State actors. It is through the peaceful settlement of disputes and conflict prevention that we could ensure justice, equality and peace in our world.

The International Court of Justice, as the principal judicial organ of the United Nations, provides Member States and United Nations organs with the best platform for that endeavour. It is an international court of a universal character, with twofold general jurisdiction.

In the first place, it decides upon disputes freely submitted to it by States in the exercise of their sovereignty. One hundred ninety-two States are parties to the Statute of the Court, 66 of which have also accepted the Court's compulsory jurisdiction. Pakistan is a party to the Statute and has accepted the Court's compulsory jurisdiction. Additionally, more than 300 bilateral and multilateral treaties provide for the Court to have jurisdiction in the settlement of disputes arising out of interpretation of those treaties. The Court also enjoys jurisdiction in forum prorogatum situations.

The Court is playing a valuable role as far as its handling of cases related to its primary jurisdiction is

concerned. We are happy to note that the number of cases decided by the Court during the past 10 years has substantially increased compared with the previous 10-year period through efficient handling of the cases brought before the Court. However, the problem comes from the States that are reluctant to accept the Court's jurisdiction in the area of dispute settlement owing to the weakness of their cases or to other political considerations. We hope that, with the passage of time, even those who are reluctant today will move forward and accept the Court's jurisdiction for the peaceful settlement of disputes and conflict prevention.

The Court's second type of jurisdiction is that of advisory opinion, in accordance with article 69 of its Statutes, which covers consultations by the General Assembly and the Security Council on legal questions arising within the scope of their activities. In the recent past, more cases of the use of force under Chapter VII of the Charter were noted, as compared to the referral of disputes to the Court for peaceful resolution under paragraph 3, Article 36 of Chapter VI of the Charter. The United Nations Charter recognizes in Article 1 that settlement of international disputes "by peaceful means, and in conformity with the principle of justice and international law" is one of the basic purposes of the United Nations. Chapter VI of the Charter offers vast possibilities for the United Nations and its organs to play an important role in the pacific settlement of disputes. We strongly believe that better utilization of the Court for the peaceful settlement of disputes and conflict prevention will serve as the basis for the long-term peaceful coexistence of the international community.

We are happy to note that the Court has handed down judgments on three important cases. The Court's judgment in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea* (*Nicaragua v. Honduras*) is helpful in understanding the Court's approach to the difficult legal questions. The Court was to decide the sovereignty of Nicaragua or Honduras over the islands of Bobel Cay, Savanna Cay, Port Royal Cay and South Cay. It was important to note that the Court first wanted to base its decision on the principle of *uti possidetis juris*. The Court sought to identify any post-colonial *effectivités* after it concluded that the title of the islands could not be established by virtue of *uti possidetis juris*. We are of the view that this approach could help settle disputes related to small islands and

that the decision should not serve as a general precedent for the handling of such cases.

The Court also handed down its judgment in the case concerning *Territorial and Maritime Dispute (Nicaragua v. Colombia)*. The case was related to the obligation of parties under treaties and the interpretation of treaties. It also highlighted the willingness of Nicaragua and Colombia to settle these disputes through peaceful means. The Court's judgment in the case concerning sovereignty in the *Malaysia/Singapore* case was also an important outcome. We have noted that many aspects of the Court's judgment in these cases were put to vote and had to be decided on the basis of a majority decision. We have been carefully studying these judgments and their precedent-setting implications on international law.

We have noted with appreciation that the Court has been systematically and regularly re-examining its ongoing proceedings and work methods. The Court's efforts to enhance its productivity, especially through regular meetings devoted to strategic planning of its work are praiseworthy. We have also noted that the Court has set for itself a particularly demanding schedule of hearings and deliberations and has cleared the backlog of cases. We appreciate the Court's assurance to Member States that oral proceedings on the cases can now be started in a timely manner, immediately after finishing the written exchanges.

The international legal institutions, especially the International Court of Justice have an important role in defining and implementing justice and rule of law in today's world. The principles of peaceful coexistence and respect for basic human rights can only be ensured through respect for the rule of law and justice. The International Court of Justice, through its impartial and independent decisions, could contribute to a rule-of-law-based international society. However, it is the willingness of Member States, General Assembly and the Security Council that will play pivotal role in defining and promoting a rule-of-law-based international legal system.

Mr. Bula-Bula (Democratic Republic of the Congo) (*spoke in French*): The delegation of the Democratic Republic of the Congo has carefully studied the report presented to the General Assembly by the President of the International Court of Justice covering the period from 1 August 2007 to 31 July 2008. During this period we note that the Court has

dealt with 15 cases. The delegation of the Democratic Republic of the Congo will offer observations on the four following subjects that relate to eight judicial decisions of great interest: Firstly, emerging jurisprudence relating to the environmental rights and the right to development; secondly, decisions relating to applications against State organs; thirdly, matters relating to international peace and security and lastly, cases relating to consular rights.

It would seem, to my delegation, somewhat unnecessary to dwell on conventional jurisprudence relating to the law of the sea, although some who have brought applications to the Court have remained unsatisfied. A similar fate indeed awaits the Diallo case relating to diplomatic protection, a remnant of the past that archaeologists in the legal arena seek to excavate, indulging in ideological speculation about a so-called diplomatic protection by substitution, which is unknown in contemporary international law. There is still time for the parties to spare the international judges from having to hear this case, for, as Charles Rousseau said, they are far removed from the many domestic laws relating to this unfortunate misunderstanding between the parties.

We are grateful to the Court, and particularly the President of the Court, for having so quickly made real progress in maximizing its throughput.

The *Gabčíkovo-Nagymaros Project* case (*Hungary v. Slovakia*), the *Pulp Mills on the River Uruguay* (*Argentina v. Uruguay*) and the *Aerial Herbicide Spraying* case (*Ecuador v. Colombia*) are three rulings which, apart from providing a solution for the parties, relate to the law of the environment, which is so closely linked to the right to sustainable development.

The Court has a duty to ensure balance between environmental and developmental considerations. Did the international judge know, at the time of taking that initial decision on 25 September 1997, that he was establishing a very fruitful precedent for cases brought before the Court and perhaps also for advisory opinions sought in the future, for example, on climate change and who knows what else?

The African Charter on Human and Peoples' Rights for the first time enshrined the right to development and environmental rights, and is now part of general international law. By recognizing that its decisions are long term, the International Court of Justice should and does know that, with the

Gabčíkovo-Nagymaros Project case, it has opened up a new chapter in jurisprudence, the main idea being the right to development of the individual, of peoples, of States, of humanity, spanning space and time as Mr. Dupuy has said.

Following the case of the arrest warrant of 11 April 2000, there has been a tendency to bring criminal complaints against the organs of the State to the Court, namely the case concerning *Certain criminal proceedings in France* (*Republic of Congo v. France*); and *Certain Questions of Mutual Assistance in Criminal Matters* (*Djibouti v. France*). That case is therefore still pending before the Court. However, the findings of the judgment handed down on 4 June 2008 in the case concerning *Certain Questions of Mutual Assistance in Criminal Matters* (*Djibouti v. France*), two and a half years after the case was submitted on 9 January 2006, does not appear to have addressed the issue of the immunity of organs of a foreign State, which is not to be confused with impunity.

The case concerning *Avena and Other Mexican Nationals* (*Mexico v. United States of America*) is similar to the historic *LaGrand* case (*Germany v. United States of America*). *Avena* has to do with the violation of consular rights. As we know, in that case the Court said that orders for provisional measures under article 41 of its Statute were mandatory. Such measures entail legal consequences for parties that do not implement them. Unfortunately, however, that did not happen in the case of the order issued on 5 February 2003, which has not been implemented. A year and a half after they were issued, with the International Court acknowledging that they were binding, the mandatory nature of provisional measures must not be allowed to become a dead letter. At stake is the credibility of the Court's decisions — a fortiori, in this case, the effective implementation of the 31 March 2004 judgment. The jurisprudence emanating from the *LaGrand* case must be safeguarded.

The case concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Uganda*) entails an extreme example of what Article 2, paragraph 4, of the Charter of the United Nations referred to as the

"use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations".

That case, which was decided by the judgment of 19 December 2005, overruled the 1949 case of the *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)*, the 1986 *Nicaragua* case and the 2003 case involving oil platforms. Although, as some have rightfully pointed out, the decisions of the International Court of Justice could have been more precise in their findings, they are no less well established, regardless of the wording employed. In that regard, it is important to read the entire judgment carefully, especially paragraphs 153, 304 and 345. Given the friendly relations of cooperation that are gradually being restored between the two former belligerents, the delegation of the Democratic Republic of the Congo expects that the matter of compensation will be justly, equitably and speedily resolved through the means prescribed by the judgment of 19 December 2005.

The Democratic Republic of the Congo is a State that is unique in having brought five cases to the Court in the period of a decade and has made an enormous contribution to the effectiveness of international judicial settlement and therefore to that of the main legal organ of the United Nations. The delegation of the Democratic Republic of the Congo, its Government and its national group on the Permanent Court of Arbitration believe that, as a State that has so amply demonstrated that it believes in the rule of law and respects international law — sometimes as applicant State and others as respondent — our country has built up a wealth of experience that it would like to share with the international community. That is the underlying motivation for the first candidacy submitted by the Democratic Republic of the Congo to the International Court of Justice, namely, my own modest candidacy, as a former ad hoc Judge of the Court, for the elections to be held on 6 November 2008. That candidacy, which fully meets all of the requirements for professionalism and high moral character, also contributes to striking a perfect balance at the Court in line with the provisions of articles 2 and 9 of the Statute, regarding the world's main forms of civilization and the practice legal systems, as well as the practice of equitable geographic rotation.

Those are the comments that the delegation of the Democratic Republic of the Congo wanted to make with regard to the serious, clear and well-organized report that has been submitted by the Court.

Mr. Appreku (Ghana): My delegation wishes to thank to Her Excellency the President of the International Court of Justice, Dame Rosalyn Higgins, for introducing the report (A/63/4) on the role and functioning of the Court during the period under review. We also wish to thank the Secretary-General for his report (A/63/229).

As this happens to be the last time that Judge Higgins may be addressing the General Assembly in her capacity as President and Judge of the International Court of Justice, my delegation wishes to place on record Ghana's deep appreciation for Judge Higgins' distinguished contribution to the renaissance in the working methods of the Court, thus helping to lift the image of the Court as an indispensable judicial organ for the peaceful settlement of international disputes.

Thanks to the prodigious efforts of President Higgins and the other judges of the Court, the record shows that a growing number of States are turning to the International Court of Justice as the pre-eminent judicial forum to which States may refer the resolution of their legal disputes in accordance with the principles of justice and international law. The confidence of States parties to the Statute of the Court — even for States that have yet to accept the Court's compulsory jurisdiction — is further expressed in the number of treaties and other international agreements, including those to which Ghana is party, that contain provisions for the settlement of disputes by the Court in the event of a failure in the processes of negotiations, mediation, conciliation or arbitration.

As a result of the varied nature of cases that the Court is called upon to adjudicate — ranging from the traditional areas of disputes concerning territorial claims and the treatment of nationals to cutting-edge issues such as allegations of massive violations of human rights — the Court is significantly defining and refining the rules that should govern the behaviour of States, nations and individuals. The Court's influence is increasingly being felt in fields such as international human rights and humanitarian law, as well as with regard to laws about the environment, shared natural resources and diplomatic and consular relations, thus making an invaluable contribution to the codification and progressive development of international law.

At the global level in general, and in Africa in particular, there is a happy coincidence in the decreasing incidence of armed conflicts that were

prevalent over the past decade and the increasing number of cases of disputes that have been submitted to the courts for peaceful resolution, many of which involve African States as parties. According to the report before us, during the period under review, the regional diversity of the cases that came before the Court from the world over reflected its universality.

Ghana notes with satisfaction that regular dialogue between the Court and other international tribunals such as the International Criminal Court and the ad hoc Tribunals for the former Yugoslavia, Rwanda and Sierra Leone, among others, ensures the promotion of universality, not only in regional or geographical terms, but also in terms of jurisprudence. Ghana would also urge that dialogue between the International Court and the newly created regional and subregional courts in Africa be encouraged in order to strengthen capacity-building and deepen the rule of law at the regional and subregional levels.

Ghana believes that the Court's endeavours to uphold the principles of the strict equality of parties and due process, as well as its own impartiality, independence and judicial integrity, have contributed in no small measure to inspiring renewed confidence in the Court.

Besides its role as an avenue for the settlement of disputes through peaceful means, the Court's role in conflict prevention through the promotion of respect for the rule of law cannot be underestimated. It should be recalled that a recent assessment by the Secretary-General in his report to both the General Assembly and the Security Council indicated that it is much less expensive to prevent armed conflicts than to resolve them. Ghana therefore believes that no effort should be spared to meet the request contained in the Court's report for adequate human and material resources, including the recruitment of the requisite number of law clerks, in order to enable the Court, with the support of its Registry, to handle more effectively and expeditiously its cases, which, according to its report, are growing in factual and legal complexity.

The need for adequate funding of the Court becomes even more urgent, given that a significant number of cases have direct or indirect bearing on the three pillars of the United Nations agenda, namely peace and security, human rights and development, which are essentially interwoven and interdependent, as neither of them can be pursued without the other,

nor can any one of them be realized without justice being anchored in the rule of law.

Ghana also welcomes steps taken by the Court not only to improve the quality of justice but also to ensure greater accountability in the management of budgetary resources through the reporting mechanism, under which the Registrar reports more frequently to the Budget and Finance Committee of the Court.

My delegation recognizes the contribution of the Secretary-General's Trust Fund in facilitating access to the Court by less-endowed States. Ghana commends the Court's open-door policy, which allows all people, including political leaders, scholars and students alike, to visit the Court's premises, and facilitates access to information about the work of the Court through the Internet, thus helping to demystify the law and enhancing the Court's legitimacy and authority in the world. Ghana will continue to do whatever it can to support the noble work of the International Court of Justice for the advancement of the rule of law everywhere.

Finally, my delegation would like to congratulate Ms. Rosalyn Higgins for her distinguished record as Judge and President of the International Criminal Court. We wish her the very best in all her future endeavours.

Mr. Benmehidi (Algeria) (*spoke in French*): I would like, first of all, to express my thanks to Judge Rosalyn Higgins for her eloquent presentation of the annual report of the International Court of Justice (A/63/4). She has painted a detailed picture of the achievements and the active role that the Court continues to play under the Charter of the United Nations, specifically the promotion of the ideals of law through the peaceful settlement of disputes, the non-recourse to the use of force, the promotion of international law and the primacy of the rule of law in international relations.

In the 2005 World Summit Outcome Document, our heads of State and Government forcefully reaffirmed the obligation of States to settle their disputes by peaceful means in accordance with Chapter VI of the Charter and, when appropriate, to bring them before the International Court of Justice.

The judgments of the Court over more than six decades have dealt with a very varied set of disputes. The judgments of the Court and its advisory opinions

have significantly contributed to increased respect for international law, as well as to its progressive codification.

The factual and legal diversity and complexity and the increasing number of cases brought before the Court clearly display the increased confidence of a wide range of parties in the jurisdiction, impartiality and independence of this institution.

Algeria welcomes the judgments handed down by the Court during the year 2007-2008 in the case of the territorial and maritime dispute in the Caribbean Sea between Nicaragua and Honduras, the territorial and maritime dispute between Nicaragua and Colombia, the sovereignty of Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge between Malaysia and Singapore, and in the case pertaining to mutual assistance in criminal matters between Djibouti and France. The Court has also ruled on the request for provisional measures submitted by Mexico with regard to a request for interpretation of the judgment handed down by the Court on 31 March 2004 in the case of Avena and other Mexican nationals.

This kind of result is undoubtedly due to the intense efforts by the judges despite the logistical difficulties pointed out on numerous occasions by the successive Presidents of the Court in their reports. It is regrettable that the principal judicial body of the United Nations continues to suffer from a lack of budgetary resources. The budgetary requests expressed by the Court have only been partially satisfied. Member States, by means of the General Assembly, must make available to the Court the human and financial means that will allow it to carry out its mission.

We would like here to congratulate the Court for its ongoing endeavours to improve its procedures and working methods and increase its productivity, in particular by holding regular strategic planning meetings. This display of dynamism and self-discipline has made it possible for the Court to clear its backlog, which is something we must welcome.

Judge Higgins has reminded us of the many cases that the Court has examined and the judgments and opinions issued since it was created. Respect for and implementation of the judgments it has issued are of capital importance for the parties concerned and for the entire international community. The Charter of the

United Nations entrusted the Security Council with a role in that area.

With regard to another important aspect of the Court's activities — the advisory opinions rendered by this principal judicial organ of the United Nations — my delegation believes that they are not merely points of view, but rather reaffirmations of principles of international law and contributions to its enrichment and development. At a time when the primacy of international law is being reaffirmed more and more each day because of the growing complexity of international relations, we believe that advisory opinions should be taken into consideration by all Member States and, first and foremost, by the principal United Nations organs, in particular the General Assembly and the Security Council.

The Court's opinions must not remain dead letters. In particular, the recent opinion on the legal consequences of the construction of the wall of separation in the occupied Palestinian territory enshrines the principle of the inadmissibility of acquiring land by force and must be taken into account by the principal United Nations organ responsible for the maintenance of international peace and security. Member States must continue to have recourse, through various United Nations organs, to the Court's jurisdiction by requesting advisory opinions on issues involving or concerning them — as the General Assembly did on the issue of Kosovo's unilateral declaration of independence. Such requests will undoubtedly enrich the Court's jurisprudence and ensure that the principles and ideals promoted by the Charter's authors will prevail.

Finally, we wish to reaffirm once again our support for the role of the International Court of Justice and our confidence in its members, who have been faithfully represented by the presidency of Judge Higgins. While we wish her a very enjoyable and well-deserved retirement, we are convinced that she will continue to serve justice.

Mrs. Miculescu (Romania): Let me start by expressing Romania's appreciation for the report of the International Court of Justice (A/63/4), which is — as it is every year — comprehensive and enlightening as to the complex activities carried out by the Court. Our congratulations go to the Honourable Judge Rosalyn Higgins, President of the International Court of Justice, and all members of the Court on their outstanding work.

The report proves once more that the International Court of Justice is pivotal in strengthening respect for international law by resolving the disputes submitted to it by States in accordance with the relevant norms. My country is deeply devoted to conducting its international relations on the basis of full observance of international law and is committed to settling all disputes exclusively by peaceful means. In that respect, Romania attaches great importance to the crucial role played by the International Court of Justice in promoting the rule of law in international relations.

That is clearly proved by the fact that Romania brought before the Court the issue of maritime delimitation concerning the continental shelf and the exclusive economic zones of Romania and Ukraine in the Black Sea. We did so only after a long and intense negotiation process and after it had become obvious that the bilateral talks on that issue could not lead to a mutually agreed solution within a reasonable period of time. The decision to bring that matter before the Court represented our clear recognition of the Court's professionalism and, in particular, its extensive expertise in the field of maritime delimitation. It was also an expression of our full confidence in the impartiality of the principal legal organ of the United Nations.

The most recent development in the case, namely, the hearings that took place in September in The Hague, occurred after the period covered by the report. We are now expecting the delivery of the judgment. Let me stress that Romania is extremely satisfied at the swift development of the proceedings in this case and highly appreciates the efforts of all the Court services that were involved. In that context, I would like to express our gratitude for the very effective and courteous assistance provided by the Registry in all procedural matters.

Romania is fully confident that the Court will find an equitable solution with regard to the delimitation of the maritime spaces of the two countries through correct application of the relevant international law and the method developed by the Court in its well-established jurisprudence on the matter. It goes without saying that Romania is committed to complying with the decision taken by the Court. We are pleased that Ukraine has also stated its commitment to abide by the judgment rendered. Those pledges are, I believe, a demonstration of maturity and also of the friendly relations that our two countries enjoy.

Furthermore, our confidence in the Court, as well as our ongoing support for its activities, were demonstrated by our positive vote requesting an advisory opinion of the Court with respect to the conformity with international law of the unilateral declaration of independence by Kosovo's Provisional Institutions of Self-Government. Romania also notes with appreciation the Court's activities in the other cases mentioned in the report, given that the Court's workload has increased considerably in recent years. It is reassuring to see that the Court has been successful in maintaining the high standards of legal rigour and clarity that have always characterized its work. It is noteworthy that the judgments rendered by the Court during the period under review addressed many important points of law, ranging from the method to be applied in maritime delimitation to the immunities enjoyed by State officials. Romania wishes to acknowledge the significant contribution that those judgments by the Court make to the development of international law by reinforcing, refining and further enriching the long-established rules of international law.

I now turn to the future. A look at the Court's current docket shows that many new challenges lie ahead. The Court will have to deal with additional complex cases regarding matters of great importance, both for the States directly concerned and for the international community. That shows the international community's increasing confidence in the impartiality of the Court and in the high quality of its work, as well as in the increased role that it is called to play in maintaining international peace and security.

In closing, I would like to add that we have no doubt that the solutions to be found in each of these cases by the International Court of Justice will be the result of thorough evaluation of the applicable norms and the relevant facts, thus further helping to strengthen the international legal order, which is one of the major roles that the Court has to play in this ever more complicated world.

Mr. Bristol (Nigeria): The Nigerian delegation warmly welcomes Her Excellency Judge Rosalyn Higgins, President of the International Court of Justice, and thanks her for the report of the Court (A/63/4) and for her immense contributions to the progressive development of international law in the three years during which she has been President of the Court. We are also appreciative of her briefing on 27 October to

the legal advisers of ministries of foreign affairs of Member States and to Sixth Committee representatives. We welcome that enlightening annual exchange.

We are delighted that the Court is working tirelessly and consistently in the discharge of its twofold mandate of adjudicating the legal disputes submitted to it by States in the exercise of their sovereignty and rendering advisory opinions on legal questions referred to it by duly authorized United Nations organs and specialized agencies. It is heartening to note that the past year was the most productive in the Court's history and that the Court, during that period, handed down four substantive judgments and two orders and held hearings in four cases, with three judgments currently under deliberation. Five new cases have also been submitted to the Court, including the General Assembly's request for an advisory opinion.

In addition, approximately 300 bilateral and multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising from their application or interpretation.

The Court is also seized of cases concerning more cutting-edge issues such as allegations of massive human rights violations, including genocide, and the management of shared natural resources. Needless to say, that continuing increase in the Court's caseload requires adequate and commensurate resources.

We therefore thank the Court for the various procedural innovations and initiatives that it has adopted to be more efficient and to eliminate the backlog of cases. Those innovations include simplifying the Court's deliberations, continuously improving its working methods, issuing periodic practice directions, reaching out to other international courts and tribunals and taking full advantage of information technology through the launching of a new website.

The foregoing is a positive development, especially in view of the fact that the value of the Court is not to be judged only by the number of cases it handles but more by its contribution to the progressive development of international law. The invaluable nature of the Court's contributions was only slightly revealed when the President addressed legal advisers on 27 October, through her reference to but a few cases. Her discussion of the cases threw light on some of the issues that the Sixth Committee is currently deliberating.

My delegation notes with satisfaction the refreshing interchange and regular dialogue between the Court and other international courts and tribunals. Issues decided by other international or regional judicial bodies arise in Court cases, and the judicial work of other international courts and tribunals has relevance to Court findings. That development is highly commendable, especially as it could help in forestalling fragmentation of international law. We therefore commend the Court for its cooperation with those international judicial bodies.

In recognition of the indispensable and dependable nature of the Court's work, my country submitted to the Court's jurisdiction in its dispute with Cameroon, a neighbouring country. In the same vein, since the Court's judgment in 2002 we have painstakingly taken steps to implement the judgment, a process that was completed on 14 August 2008.

In that unprecedented achievement, Nigeria clearly demonstrated its deep commitment to international peace and security by adhering to the Court's ruling, thereby shunning the option of belligerence. We urge Member States to take disputes before the Court. That will ensure the peaceful resolution of disputes and broaden the spectrum of the Court's contribution to the further development and dissemination of international law.

Mr. Muita (Kenya): At the outset, allow me to join other delegations in commending the President for the excellent manner in which he continues to guide our deliberations in the Assembly.

My delegation would like to commend Judge Rosalyn Higgins, President of the International Court of Justice, for her valuable contribution to the work of the Court. As she approaches retirement, my delegation would like to thank her most sincerely and wish her well in her future endeavours.

We thank Judge Higgins for her introduction of the report of the Court contained in document A/63/4, detailing the work accomplished by the Court over the past year. The report discloses the Court's contribution to the global administration of justice. My delegation underscores the importance of that role and of respect for the rule of law as the only guarantee of lasting peace in the world.

We note that the past judicial year has been very active for the Court, having been seized of six cases,

which it has dealt with expeditiously. The diversity of cases before the Court illustrates the Court's universality. That demonstrates the crucial role played by the Court in the peaceful settlement of international disputes, thereby contributing immensely to the maintenance of international peace and stability, as provided in the United Nations Charter.

In that regard, we urge States that have not done so to accept the Court's compulsory jurisdiction, in accordance with Article 36 of the Statute of the Court. We also encourage States, in the exercise of their sovereignty, to freely submit disputes to the Court.

In addition, it is within the jurisdiction of the Court to be consulted by States, the General Assembly or the Security Council on any legal question arising from the scope of their activities. Similarly, other organs of the United Nations and agencies so authorized by the General Assembly may seek advisory opinions from the Court, to clear any doubt that they have regarding any matter of interest. In that regard, we wish to point out that increasing compliance with the Court's decisions contributes to the credibility of international law.

Kenya attaches great importance to the work of the Court and appreciates the mechanisms that have been put in place to disseminate information about its activities. Such information encompasses the decisions of the Court, which we recognize for their contribution to the progressive development of international law. Given the significance of the rule of law in international relations, we encourage the Court to continue disseminating its decisions and other publications to the relevant institutions and Member States so as to create more awareness about its work, functions and jurisdiction.

In our view, the official visits to the Court by heads of States and Government and other high-ranking Government officials reflect the recognition conferred on the Court and play an important role in enhancing its image as a central organ for the resolution of international disputes. We encourage such visits as part of the awareness programmes, and we appreciate the measures to educate officials from Member States during such visits.

We note from the report the need for modernization of the facilities of the Court to enable it to operate in an environment that meets established standards and criteria. My delegation has further noted

the pension claim for judges of the Court. We are of the opinion that both claims have merit. We therefore think that the two issues, in addition to that of staffing levels in the Court's Department of Legal Matters, deserve the positive consideration of Member States.

Let me conclude by saying that peace and justice are inextricable. Whether the two must go together is a complex issue. It is certain that peace can only be sustained if the issues of justice are properly put in place.

Mr. Nhleko (Swaziland): Let me congratulate the International Court of Justice for a productive session and thank it for the comprehensive report in document A/63/4, presented to us by the President of the Court, Rosalyn Higgins.

As the International Court of Justice is the principal judicial organ of the United Nations, its work contributes to international peace and security and is widely appreciated. The Court has significantly advanced the international rule of law with landmark decisions and advisory opinions characterized by the diverse and rich legal background of its members. It is indeed a cornerstone of the international legal order.

The Kingdom of Swaziland reaffirms its strong support for the Court.

My delegation notes with satisfaction that over the past year, the number of cases pending before the Court remained high and that some of them involved developing States. The Kingdom of Swaziland supports the use of the Court by Member States and the right of United Nations institutions to seek advisory opinions on questions relating to their functions. We underline that it is of the utmost importance for States to comply with the decisions of the Court.

Upon becoming a Member of the Organization in 1968, the Kingdom of Swaziland declared its readiness to accept the Court's compulsory jurisdiction. Consequently, we urge those States that have not yet done so to consider accepting the Court's jurisdiction in accordance with its Statute.

Notwithstanding its financial difficulties, the Court continues to soldier on and to respond with determination in offsetting an increased workload with maximum efficiency. My delegation is pleased to note that the Court has managed to clear its backlog of cases and that in an effort to increase and expedite the availability of Court documents and reduce

communication costs it has launched a new website that makes it possible to access the Court's entire jurisprudence since 1946, thus ensuring wider global awareness of its activities. Further, we applaud the Court for its contributions as part of its current role in promoting the rule of law, following the 2005 World Summit Outcome (resolution 60/1).

For a judicial body of the magnitude of the International Court of Justice to function effectively, it must be accorded the support it deserves. Accordingly, the Kingdom of Swaziland appeals to the Organization to provide the Court with the tools it needs for its service to humanity.

Mr. Okuda (Japan): It is my pleasure and honour to address the Assembly on behalf of the Government of Japan. My delegation would like to express its gratitude to President Rosalyn Higgins for her in-depth report describing the current situation of the International Court of Justice and its appreciation and support for the achievements in the work of the Court during the past year. We welcome the fact that Member States are in principle trying to resolve disputes through international law. Close cooperation between Member States and the Court to that end should continue.

The Court's devoted work and profound legal wisdom in seeking peaceful settlement of disputes have been attracting the respect and support of international society. In the present international community, where we continue to witness armed conflicts and acts of terrorism, the firm establishment of law and order is truly indispensable. Indeed, there has been an increasing awareness among nations that international society must recognize the value and share the goal of establishing and maintaining the primacy of international law. In that regard, the role of the International Court of Justice as the principal judicial organ of the United Nations cannot be overstated.

As a State resolutely devoted to peace and firmly dedicated to the promotion of the rule of law and respect for the principle of the peaceful settlement of disputes, Japan appreciates the strenuous efforts and work of the Court over the past year in delivering decisions based on exhaustive deliberation. We believe that the Court must bring to bear not only a profound knowledge of international law but also a farsighted view of the international community, given that the world is now experiencing such rapid change and that a

variety of international disputes continue to arise. Japan respects the Court's ability to meet that requirement and continues to fully support its work.

Japan has accepted the compulsory jurisdiction of the Court since becoming a Member State of the United Nations. We urge Member States that have not yet done so to accept the Court's jurisdiction in order to facilitate establishment of the rule of law in the international community.

In concluding my statement, I wish to reiterate the great importance the international community attaches to the lofty cause and work of the International Court of Justice. Japan, for its part, will continue to contribute to the invaluable work of the Court.

Mr. Badji (Senegal) (spoke in French): Allow me first to extend my warmest congratulations to Ms. Rosalyn Higgins, President of the International Court of Justice, and to the other judges and all of the Court's staff for the excellent work they have accomplished as part of that institution.

As an international court with a general character, the International Court of Justice is indubitably the principal link in the international legal system that, in its day-to-day work, promotes international justice, the development of international law and the strengthening of the ideals of peace and justice that oversaw the creation of the Organization.

My delegation is pleased to be participating once again in the consideration of the annual report of the International Court of Justice (A/63/4). It is also an excellent opportunity to highlight the constructive work of the Court and to confirm Senegal's keen interest in its diverse activities.

My delegation is pleased to see the increased number of requests being made to the International Court of Justice, which reflects the widespread acceptance of the primacy of law and the interest that States accord to the peaceful settlement of disputes. The importance of the role of the International Court of Justice as the principal judicial organ of the United Nations in settling disputes can be gauged by the growing confidence placed in it by States that increasingly are turning to the wisdom of its judges.

In promoting the legal resolution of disputes, the supreme court of the United Nations participates in establishing peaceful relations between States and

greatly contributes to the maintenance of international peace and security. Likewise, in basing its action on promoting the rule of law, the International Court of Justice also contributes to respect for the rule of law at the international level. In addition, the decisions and judgments of the Court serve as jurisprudence and legal interpretations in many situations, thus contributing to the enrichment, codification and unification of international law.

My delegation therefore reiterates its strong support for the International Court of Justice and its commendable efforts to maintain its current effectiveness and we plead for all necessary assistance to that end.

As I had occasion to recall during the Sixth Committee's consideration of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/63/33) at this session of the General Assembly, the beneficial effects of the peaceful settlement of disputes are evident.

The reference in the United Nations Charter to the settlement of disputes "by peaceful means, and in conformity with the principles of justice and international law" being one of the primary purposes of the United Nations and the main instrument for maintaining international peace and security, sums up the importance of that type of settlement.

Thus, the United Nations has a special responsibility to promote the settlement of disputes, including legal disputes, by the International Court of Justice. That is why my delegation is greatly interested in the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice. In that regard, I would like to echo the Secretary-General's appeal to States to make substantial and regular contributions to the Trust Fund.

Mr. García González (El Salvador) (*spoke in Spanish*): The delegation of El Salvador wishes to express its gratitude to Judge Rosalyn Higgins, President of the International Court of Justice, for her introduction of the Court's excellent report (A/63/4) to the General Assembly, covering the period from 1 August 2007 to 31 July 2008.

We also wish to congratulate the Court on its efforts to achieve the objectives that Judge Higgins set forth in her statement. This is of prime importance in

increasing the confidence of the international community in that high court of justice, which significantly contributes to maintaining international peace and security by exercising its jurisdiction.

That growing confidence in the Court is reflected in the number of litigious disputes and requests for advisory opinions being brought before it, and in the diversity of the States that are party to them. As the report clearly states, that shows the universality of the Court.

We very much welcome the range of disputes brought before the Court. As well as dealing with traditional territorial disputes, maritime delimitation cases and disputes linked to the treatment of nationals of one State by other States, the Court is also now examining very topical matters, such as those connected with human rights and shared natural resources. Those disputes have gained in complexity now that they involve several phases as a result of preliminary objections raised by respondents with regard to the jurisdiction or admissibility, as well as the requests for provisional measures that need urgent examination.

The Republic of El Salvador acknowledges the great legal value of the judgments of the Court both to the States party to a dispute and to all other States in the international community, since they establish guidelines that contribute to the codification and progressive development of international law and the strengthening of the rule of law.

In that regard, our country is delighted to welcome the establishment of the Court's new website, launched last year, not only because of the amount of information it provides, but also because of the efforts to include material in the official United Nations languages. That not only extends the global reach of the Court, but also means that, from the outset of their studies, future generations of lawyers will know and become familiar with the large body of jurisprudence established by the International Court of Justice and understand the important role that the Court plays in maintaining international peace and security.

In conclusion, I would like to recall that, in a few days, in the General Assembly and the Security Council the election of judges to the five vacant seats on the International Court of Justice will take place. We call on those who are elected to ensure that their work in the Court is as committed and dedicated as that

which has been carried out to date, since it represents the great civilizations and principal judicial systems of the world.

Ms. Kok (Singapore): My delegation would like to express our appreciation to Her Excellency Judge Rosalyn Higgins, President of the International Court of Justice, to the other members of the Court, and to the Registrar and the staff of the Court for the comprehensive report (A/63/4) documenting the work of the International Court of Justice for the period 1 August 2007 to 31 July 2008. Singapore congratulates the Court on the conclusion of another industrious and productive year.

Singapore attaches great importance to international law, and we have always sought to conduct ourselves in conformity with it. We have worked with other like-minded States to strengthen the rule of law in the world. We believe in the peaceful settlement of disputes. When States cannot resolve their differences by consultations, negotiations or mediation, we believe that it is preferable to refer a dispute to a binding third-party procedure. That can take the form of either arbitration or adjudication.

The International Court of Justice provides States with the latter recourse. It is an efficient mechanism established to settle, in accordance with international law, legal disputes submitted to it by States. The Court plays an important role in enunciating principles of international law that help to develop predictability and consistency in inter-State relations. For those reasons, Singapore wishes to stress its firm belief in the importance of the Court and the critical role it plays in upholding the rule of law in the world and the corollary maintenance of international peace and order.

Singapore notes that there are numerous specialized courts and tribunals in the United Nations system. While there is no formal hierarchy of courts in international law, the International Court of Justice is the principal judicial organ of the United Nations and is *primus inter pares*, or first among equals. Notwithstanding its increasing workload, the Court has discharged its responsibilities with impeccable professionalism and expertise.

As stated in the report, on 23 May 2008, the Court delivered its judgment in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore). The Court found that sovereignty over Pedra Branca

belongs to Singapore and sovereignty over Middle Rocks belongs to Malaysia. The Court also found that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

The judgment marks an end to a long-standing dispute between Malaysia and Singapore. As close neighbours that wish to maintain good bilateral relations, we decided to refer the matter to binding third-party adjudication, and thus we brought the case before the Court in 2003.

From the very beginning, when the decision was made to submit the matter to the Court, both Malaysia and Singapore agreed to abide by the judgment of the International Court of Justice. This joint commitment to honour and abide by the judgment of the Court and fully implement its decision has been repeatedly confirmed by both Malaysia and Singapore, most recently after the judgment was delivered. To ensure the implementation of the judgment in a peaceful and amicable manner, Malaysia and Singapore have set up a joint technical committee to resolve issues arising from the judgment.

Most importantly, the commitment to abide by the decision of a third-party adjudicator by both sides to a dispute is fundamental to upholding and respecting the rule of international law, which is necessary for peaceful inter-State relations and the maintenance of world order. This idea is another aspect and subset of the principle of States upholding their international obligations in good faith.

Singapore has always marvelled at how the Court manages to do so much with the funds allocated. Singapore takes note of the Court's appropriate and timely development plans as described in its report. We applaud the Court's efforts to modernize its system in line with current practices.

Singapore is sympathetic to the Court's need for more manpower. Given that it continues to fulfil its mandate responsibly and given its core function as the principal judicial organ of the United Nations system, the Court should be readily supported by all Member States. It is important that we ensure that the Court is adequately provided for. Singapore supports the continued allocation of resources from the United Nations regular budget to the Court for its effective functioning.

In summary, I would like to reiterate that Singapore places great emphasis on the rule of law, both domestic and international. As a member of the peaceloving United Nations community, Singapore firmly believes that each of us shares a special responsibility to ensure continued respect for and observance of the rules of international law. We can do our part in this endeavour by showing our support for the Court and respecting its decisions. The Court can be assured of Singapore's steadfast regard for it, and my delegation wishes the Court all good fortune as it engages in the work ahead.

Mr. Serradas Taveres (Portugal): At the outset, I would like to congratulate Mr. Miguel d'Escoto Brockmann on his election to the presidency of the General Assembly at its sixty-third session. Let me also congratulate President Higgins for her work at the International Court of Justice and thank her again for the comprehensive report on the work of the Court over the period under review.

The International Court of Justice, it should be recalled, is the only international court of a universal character with general jurisdiction. As the principal judicial body of the United Nations, the Court holds important responsibilities in the international community, playing a fundamental role in the judicial settlement of disputes between States and in the strengthening of the international rule of law.

The workload of the Court confirms its relevant role in the international legal system. As Judge Higgins reminded us in her statement, the past year has been the most productive year in the Court's history. In July 2008, the number of cases on the docket stood at 12. In the period under review the Court issued four judgments and an order on a request for indication of provisional measures. Further, it held hearings in four cases.

It is worthwhile highlighting that these cases come from all over the world, relate to a great variety of subject matters and are growing in factual and legal complexity. The Court has undertaken an impressive effort in order to respond to this high level of demand for its services. However, it is also important for States Members of the United Nations to acknowledge the Court's need for adequate resources.

The Court plays a crucial role in the international legal system, and this role is increasingly being recognized and accepted. As of 31 July 2008, the 192 States Members of the United Nations were parties

to the Statute of the Court, and 66 of them had recognized its jurisdiction as compulsory. Moreover, approximately 300 bilateral and multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of the application or interpretation of such treaties. Portugal would like to encourage all States that have not yet done so to consider accepting the Court's compulsory jurisdiction.

Portugal is confident that the Court will continue to overcome the challenges that will increasingly impinge upon it. These challenges may be considered to be a good sign, as their existence means that States have confidence in the Court for the settlement of disputes and for the strengthening of the international rule of law towards justice and peace.

Mr. Tommo Monthe (Cameroon) (*spoke in French*): I would like first of all to extend my deepest thanks to Judge Rosalyn Higgins, President of the International Court of Justice, for the excellent report she has just submitted to us on the work of the Court during the period from 1 August 2007 to 31 July 2008.

I wish to say to the President of the Court that for the peoples of the United Nations, the role entrusted to that very noble institution that she has the difficult and delicate task of heading, is irreplaceable in terms of finding peaceful settlement to international disputes and in promoting the rule of law.

That is why it is correct to note that, at the 2005 World Summit, the leaders of the entire world met together here in this very Hall committed to emphasizing the obligation imposed on States to settle their disputes by peaceful means, in accordance with Chapter VI of the Charter of the United Nations, including, should it be necessary, the obligation to bring such disputes before the International Court of Justice.

In our ongoing search for a society in which law prevails, we see the International Court of Justice as the best means for ensuring a brighter future for future generations.

Cameroon is convinced of the importance of law in inter-State relations and would therefore like to take this opportunity to confirm once again its support for the role played by the International Court of Justice as the principal judicial organ of the Organization and the only universal court with general jurisdiction. Not only does the Court decide disputes that States bring to it freely in exercise of their sovereignty, but the Court

can also be consulted on any legal issue by the General Assembly or the Security Council.

Despite the high level and complexity of the matters brought to it, the Court has never been as successful and productive as it has been in recent years.

In the period under review, it has issued four judgments and one order on a request for the indication of provisional measures. Moreover, the cases brought to the Court have come from all corners of the globe. That admirable vitality of the Court derives from the intrinsic worth and the high moral probity of the men and women who work there. It also derives from the seriousness of the decisions rendered by the Court and from its enduring desire to deal swiftly with matters brought before it.

Cameroon welcomes the successes recorded by the Court for the maintenance of international peace and security. Those results would not have been possible unless the Court were inspired by a constant desire to improve its productivity. The Assembly may be assured of my country's support for the significant contribution made by the Court, for the rule of law in international relations and for the remarkable efforts the Court has made to quickly settle matters submitted to it.

Since it was founded in 1946, the Court has handed down over 92 judgments, of which more than one fifth have been in the last 10 years. That increase is proof of the confidence that the authority of the Court inspires in more and more States. Cameroon believes in the rule of law, and we believe that trust in the Court should be reflected in universal acceptance of its compulsory jurisdiction, in accordance with Article 36, paragraph 2 of the Statute of the Court. As of 31 July this year, of the 192 Member States of the United Nations, only 66 have made declarations recognizing the compulsory jurisdiction of the Court. That is less than one third of the membership.

The increase in the number of cases brought before the Court is an ongoing challenge, but it is one we must face if we are to achieve universal jurisdiction and confirm our support for Article 36.

May I turn now to the matter of the resources the Court needs to proceed impartially with its work. For the biennium 2008-2009 the Court had requested a number of posts, not all of which were approved. Cameroon believes that if we do not respond favourably to the Court's financial requests, we run the

risk of hampering the good normal functioning of the principal judicial organ of the United Nations. We will closely follow the proposals that the Assembly's Fifth Committee makes on this matter, on the basis of technical advice from the Advisory Committee on Administrative and Budgetary Questions, which has always supported allocations to modernize the tools and working methods of the Court and to improve the conditions of service of the judges. We have to be supportive of the Court as it increases its productivity, in particular as regards the progressive development of international law.

In conclusion, may I say once again that my country truly believes in the primacy of law in international relations and, thus, in the fundamental role of the International Court of Justice in promoting the rule of law.

My country's commitment to the Court and to law is illustrated by the *Bakassi* case, which we brought before the Court. The case resulted in a successful outcome between Cameroon and the sister Republic of Nigeria, thereby opening up a new era of peace and enhanced economic cooperation between the two countries.

Programme of work

The President (*spoke in Spanish*): I wish to inform members that agenda item 58, "Report of the Human Rights Council", will be considered on Tuesday, 4 November 2008, in the morning.

I should also like to announce the following activities. The 2008 United Nations Pledging Conference for Development Activities will be held on Monday, 10 November 2008, in the morning, in Conference Room 2. The Pledging Conference for the Food and Agriculture Organization of the United Nations and the World Food Programme will be held in the afternoon of the same day, Monday, 10 November 2008, also in Conference Room 2.

The announcement of voluntary contributions to the 2008 programmes of the United Nations Relief and Works Agency for Palestine Refugees in the Near East will take place on Wednesday, 10 December 2008, at 11 a.m., in the Economic and Social Council Chamber.

Members are requested to consult the *Journal* for further details on those activities.

The meeting rose at 1.05 p.m.



General Assembly

Sixty-third session

35th plenary meeting

Friday, 31 October 2008, 3 p.m.
New York

Official Records

President: Mr. D'Escoto Brockmann (Nicaragua)

In the absence of the President, Mr. Abdelaziz (Egypt), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 66 (continued)

Report of the International Court of Justice

Report of the International Court of Justice
(A/63/4)

Report of the Secretary-General (A/63/229)

Mr. Hernández García (Mexico) (*spoke in Spanish*): The Mexican delegation is extremely grateful to the International Court of Justice for its hard work this year. We would also like to congratulate the President of the Court, Judge Rosalyn Higgins, for her outstanding work at the helm of the highest legal body. We wish to pay tribute to her as the first woman to be elected as a judge of the Court. Under her leadership, the Court has adopted a variety of measures that, with the passing of time, have had an impact on its efficiency. Her upcoming retirement will certainly pose an important challenge to the Court. On behalf of my delegation, I wish her every success in her future endeavours.

Mexico is fully confident that the renewal of the Court that will take place in the days to come will allow it to continue its outstanding work, ensuring that the primary legal systems and the various regional perspectives and views are duly represented.

It is important to highlight the 15 cases before the Court and the five judgments it issued in the period under consideration. Undoubtedly, that activity demonstrates the confidence that the international community has placed in the Court as one of the principal international juridical organs. Although there has been a constant increase in the number of cases brought before the Court, we are pleased that it has not fallen behind, which attests to the positive impact of the amendments made to the Courts' rules of procedure and working methods. Proof of that is the fact that, in the judicial year 2007-2008, the Court was able to consider six cases simultaneously.

My delegation welcomes the Court's achievement of its objective of clearing the backlog in its docket. As Judge Higgins stated, that has made it possible to ensure that States obtain justice without unreasonable delay.

Nevertheless, Mexico notes with concern another important issue raised in the report — the urgent need to increase human resources to support the activities of the Court. In that respect, we agree that there is an urgent need for the Court's members to have personalized legal support so that they can spend more time in consideration and deliberation. The creation of a documents division by merging the Library and the Archives Division is also essential to the proper and flexible functioning of the Court. Given the Court's heavy workload, it is important for the General Assembly to heed the call to increase the number of law clerk posts and to create the aforementioned documents division.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

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The current report (A/63/4) clearly and concisely describes the disputes now before the Court, which reflect its universal character. My delegation notes that five of the 15 cases before the Court in the reporting period involve Latin American States, and that two cases involving the region were resolved this year. One of the two judgments issued on Latin American disputes was the decision in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)* in which sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay was decided. The ruling of the Court stated that neither of the two States had title to those islands by virtue of the principle of *uti possidetis juris*. The Court ultimately established the sovereignty of Honduras, based on the principle of effective sovereignty.

Equally important was the Court's decision to reject the equidistance line method to delimit maritime zones between the two States, instead preferring to carry out a complex delimitation process using a bisector line. The decision also demonstrates the Court's capacity to deal with topics that are highly complex both technically and legally, while safeguarding the rights of third States that could be affected.

As the Assembly will recall, Mexico participated for the first time in a dispute before the International Court of Justice in the *Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America)*. In that case, the Court specified the scope of obligations set forth in article 36 of the Vienna Convention on Consular Relations with regard to the right to notification and information on consular assistance and clarified those aspects that the parties wanted to be defined in the *LaGrand (Germany v. United States of America)* ruling. The report notes Mexico's filing of a request for interpretation of the *Avena* Judgment, based on article 60 of its statute. The request was accompanied by a request for the granting of provisional measures to stay the execution of José Ernesto Medellín and four other Mexican nationals in Texas. Mexico's recourse to the Court is based on its trust in that principal international tribunal as the suitable forum for the peaceful settlement of disputes between States.

Today the International Court of Justice intervenes in the settlement of disputes dealing with subjects that are very different from those it has

traditionally addressed, such as territorial and maritime delimitation disputes. Today's issues are related to the treatment of nationals by other States, the denunciation of massive human rights violations such as genocide, or the management of shared natural resources.

My delegation welcomes the detailed information in the report on the role of the International Court of Justice in the promotion of the rule of law, as well as the Court's contribution to the analysis of that topic in the General Assembly. We agree with the Court's interpretation regarding its fundamental role in the promotion of the rule of law as the tribunal of justice and as the principal judicial organ of the United Nations.

Finally, we wish to highlight the importance of disseminating the Court's decisions through its publications and website. As my delegation has noted before, the United Nations Secretariat has translated only a very few of the Court's decisions into all the Organization's official languages. We encourage the Organization to continue its efforts, in a gradual manner, to make the work of the Court available to Member States in all the official languages.

Mexico reiterates before the Assembly its full support for and commitment to the International Court of Justice.

Mr. Elshareef (Sudan) (*spoke in Arabic*): My delegation believes that the International Court of Justice is one of the strongest citadels of justice and an honest guardian of the rules of international law. Thus it deals with matters concerning the rule of law rather than matters on the law of domination, hegemony, violence and the use of force in relations among States. My delegation is also pleased to express its deep appreciation to Ms. Rosalyn Higgins, the President of the International Court of Justice, for her presentation of the report (A/63/4), which described all of its activities and highlighted its most significant achievements in the fulfilment of its tasks.

The many legal disputes from all over the world that are submitted for consideration by the Court include those between European States, between Latin American States and two African countries, as well as other regional and maritime disputes, and they are the best proof of its universality. We note here the growing number of cases before the Court and the many issues that it has decided on, as indicated in the report. That confirms and strengthens trust in the Court and its

ability to play its role and to discharge the most urgent and important task of the United Nations, namely the peaceful settlement of disputes under the umbrella of the rules of international law.

Here we also wish to note the increasing trust of Member States in the Court, as evidenced in the accession of 192 States to its Statute and the fact that 66 States, including the Sudan, have deposited with the Secretary-General a declaration of their acceptance of its compulsory jurisdiction.

My delegation wishes to stress the necessity of strict compliance with the Court's decisions. We noticed that some parties pay no heed to the advisory opinions of the Court which negatively impacts its performance and promotion of the rule of law. My delegation commends the Court's efforts to broadly disseminate its publications and documents. That provides a good opportunity for people to become acquainted with its decisions and opinions and enhances awareness and relations with other legal entities.

In conclusion, I wish to reiterate our belief in the principal role of the Court. We express our thanks to all of its judges, who perform their tasks with great professionalism and transparency. We reiterate our support for the Court in its efforts to achieve its noble objectives, namely justice and the rule of law.

The Acting President: We have heard the last speaker in the debate on agenda item 66.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 66?

It was so decided.

Agenda item 69

Report of the International Criminal Court

Note by the Secretary-General (A/63/323)

Report of the Secretary-General (A/63/471)

The Acting President: In addition to the note by the Secretary-General transmitting the report of the International Criminal Court, the Assembly has before it a report of the Secretary-General on expenses incurred and reimbursement received by the United Nations in connection with assistance provided to the Court.

I call on Mr. Philippe Kirsch, President of the International Criminal Court.

Mr. Kirsch (*spoke in French*): I am very pleased today to present the fourth annual report of the International Criminal Court (ICC) to the United Nations (see A/63/323).

Ten years ago, the General Assembly set the stage for the creation of the International Criminal Court when it decided to convene the Rome Conference to draw up the Statute of the Court. Since then, the Court has grown into a full-fledged independent judicial institution backed by 108 States parties.

In my remarks today, I would like to update the Assembly on developments at the Court over the past year, take stock of where the Court stands today, ten years after the Rome Conference, and share some thoughts on the future of the Court.

During the past year four situations were before the Court. Three were referred to the Court by States parties to the Rome Statute and concern events that took place on their own territories. The fourth was referred to the Court by the Security Council, acting under Chapter VII of the United Nations Charter. In that regard, it is useful to recall that, while the Statute provides for the Prosecutor to begin an investigation *proprio motu* in accordance with certain conditions, he has not yet used that option. All the situations before the Court today are there at the will of States or the Security Council.

In the situation in the Democratic Republic of the Congo, referred to the Court by that State, preparations for the trial of Thomas Lubanga Dyilo before Trial Chamber I continued. He is accused of having enlisted and conscripted children under 15 and having made them take an active part in hostilities. On 13 June 2008, the Trial Chamber ordered a stay of the proceedings, having determined that a fair trial was not possible at that time due to the non-disclosure by the Prosecutor of potentially exculpatory evidence. On 2 July, the Trial Chamber consequently ordered Thomas Lubanga's immediate release. The decision to suspend the proceedings was upheld by the Appeals Chamber on 21 October. However, the same day, that Chamber reversed the decision of the Trial Chamber concerning Thomas Lubanga's immediate release. The Appeals Chamber found the Trial Chamber had not considered all relevant factors and remanded the issue

of the defendant's release to the Trial Chamber for reconsideration.

In the meantime, but separately from the judicial proceedings, the Prosecutor worked with the providers of the potentially exculpatory evidence to lift the confidentiality restrictions that have prevented him from disclosing those materials to the defence or from making them available to the judges. The Prosecutor has submitted a new application for the judges to review those materials. The decision on Thomas Lubanga's release and the Prosecutor's new application are currently under consideration by the Trial Chamber.

In the same situation, the Democratic Republic of the Congo surrendered Mathieu Ngudjolo Chui to the Court on 7 February 2008. His case was subsequently joined with that of Germain Katanga, who had been surrendered to the Court in October 2007. In September 2008, Pre-Trial Chamber I confirmed seven charges of war crimes and three charges of crimes against humanity against each of those two individuals. Last Friday, the joint file of Mr. Katanga and Mr. Ngudjolo was transmitted to a new Trial Chamber, which is beginning preparations for their trial.

In the situation in the Central African Republic, referred to the Court by that State, Belgium surrendered Jean-Pierre Bemba Gombo to the Court on 3 July 2008. He is suspected of having committed war crimes and crimes against humanity. Pre-Trial Chamber III has begun preparations for a hearing on the confirmation of the charges against Jean-Pierre Bemba. A date for that hearing is still to be decided.

In other cases, proceedings continued to a limited degree owing to the fact that the following individuals have not been arrested or surrendered to the Court: in the situation in the Democratic Republic of the Congo, Bosco Ntaganda; in the situation in Uganda, referred to the Court by that State, Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen; and in the situation in Darfur, Sudan, referred to the Court by the Security Council, Ahmad Harun and Ali Kushayb.

The Court has issued requests for arrest and surrender to States on whose territories those persons may be found. Under the Statute of the Court, States parties must arrest and surrender those persons in accordance with their national laws. Where they need assistance, the support of other States and international organizations is indispensable.

On 14 July 2008, the Prosecutor applied to Pre-Trial Chamber I for an arrest warrant for the President of Sudan, Omer Al-Bashir. That application is pending before the judges, who will decide independently whether or not there are reasonable grounds to believe that Mr. Al-Bashir committed crimes within the jurisdiction of the Court. On 15 October, the Chamber requested the Prosecutor to provide by 17 November additional supporting materials in relation to some aspects of that application.

The Prosecutor's Office continued the investigations in the four situations I have described. In addition, that Office examined information on crimes that may have been committed within the jurisdiction of the Court in other situations. Thus, the Prosecutor has publicly indicated that he is looking into situations concerning Colombia, Georgia, Afghanistan, Côte d'Ivoire and Kenya.

(spoke in English)

Now, I would like to turn to where the Court stands today, 10 years after the Rome Conference was convened by the General Assembly.

The ICC was born out of the international community's experience. Fifty years after the historic Nuremberg and Tokyo tribunals, serious international crimes continued to be committed with impunity. Justice was too often bargained away for the prospects, no matter how unlikely, of short-term political gains, no matter how minimal. As a result, victims endured the double indignation of suffering harm and being denied recourse to justice. Entire regions were destabilized, as widespread or systematic crimes triggered or exacerbated conflict. Societies seeking to emerge from conflict often struggled with reconciliation and with the re-establishment of the rule of law.

Against that background, the creation of the ICC reflected the resolve of States to give a permanent institutional dimension to a fundamental shift in international relations that had started a few years earlier — from a culture of impunity to an approach based on respect for justice and the rule of law. The Court did not displace existing national or international mechanisms for resolving conflicts and ensuring justice. It was set up by States to complement, where necessary and only where necessary, their own national jurisdictions.

The Rome Statute reaffirms the purposes and principles of the United Nations Charter, and, while not a part of the United Nations system, the ICC exists in relationship with the United Nations. The Court is, nevertheless, a fundamentally different institution. Like justice itself, the Court is impartial and enduring. As a permanent and independent institution, it stands as a bulwark against the temptation, no matter how well intentioned, to bargain away justice. It does not partake in political negotiations to start or to stop investigations or proceedings. All are equally liable for crimes committed within the jurisdiction of the Court.

Since the entry into force of the Rome Statute in 2003, the Court has adhered strictly to its independent and impartial mandate. Before beginning each of the four current investigations, the Prosecutor analysed the available information and concluded there was a reasonable basis to begin an investigation. The judges scrutinized each application by the Prosecutor for a warrant of arrest to ensure that the objective criteria of the Rome Statute were met. In all of their judicial proceedings, the Pre-Trial, Trial and Appeals Chambers have faithfully upheld the Rome Statute, guaranteeing the rights of accused persons and suspects and giving effect to the rights of victims.

The accomplishments of the Court are not its own alone. They are due in large part to the States, international organizations and civil society that have supported it. The significance of those contributions has been evident in the last three years.

First, States have entrusted the Court to investigate and prosecute crimes fairly and independently where national courts are unwilling or unable to do so. As mentioned earlier, the Prosecutor has not yet taken up any situation *proprio motu*. Each situation under investigation has been referred to the Court by a State party or by the Security Council. In three of those four situations, States have asked the Court to look into situations on their own territories. In other words — and I wish to draw the Assembly's attention to this point — the Court has never yet chosen itself to intervene in any situation, any region or any country. It has only complied with its judicial mandate as requested by the States concerned or by the Security Council.

Secondly, the cooperation of States, international organizations and civil society has been essential to the Court's functioning. The Court's judicial proceedings

were made possible by States surrendering suspects, protecting victims and witnesses and providing relevant information. I am pleased to report that the United Nations has consistently provided exemplary cooperation to the Court. Civil society has been an equally vital source of support for the Court, encouraging ratification of the Rome Statute, assisting States to develop necessary implementing legislation and providing a useful critical review of the Court's activities.

Thirdly, States, international organizations and civil society have been indispensable in ensuring respect for the Court's judicial mandate. The Court has been effective only because it is respected as an independent, purely judicial institution whose decisions will be enforced. The Court has earned that status in part through its own strict adherence to the Rome Statute, but also as a result of the cooperation and public support of others. In that regard, the Court greatly appreciates the Secretary-General's continued assistance and his reiteration of the independence of the Court. Similarly, a number of States parties and States not party to the Rome Statute have helped to create a climate of support through their words and actions. Where States have been silent, civil society has critically filled the void.

I would like to turn now briefly to the future of the Court. This is a critical stage for the ICC. It is still far too early to pass judgment on the success of the Court, which is a very young institution. Its development has been faster than expected and the early indications are decidedly positive, but the Court's success in the long term will depend on a number of factors. Most fundamentally, it will depend on the Court properly fulfilling its own mandate. The Court must and will continue to do its part to ensure its judicial independence and impartiality. It will investigate and prosecute crimes within its jurisdiction in accordance with the principle of complementarity. It will guarantee the rights of the accused and of suspects. It will interpret the Rome Statute and develop a body of jurisprudence. It will protect victims and witnesses. It will give further effect to the rights of victims to participate. It will address questions of reparations to victims. And in all those proceedings, it will continue to strive for the highest standards of efficiency and transparency.

However, it is important to bear in mind at all times that the ICC and the ICC system with its checks

and balances and limitations on the power of the Court were created by States as a judicial mechanism to assist in the achievement of certain objectives mentioned in the preamble of the Rome Statute, including the end of impunity, as a way to assist in achieving peace, security and the well-being of the world. That system can work effectively only if all actors in the system play their part and do so consistently. The success of the Court will therefore also depend on the actions of others.

The extent of ratification of the Rome Statute will affect the ability to which the Court can exercise its jurisdiction. Doing so truly globally, reaching universal jurisdiction over time, remains an indispensable goal.

The Court will continue to require the cooperation of States, international organizations and civil society. Legal obligations to cooperate with the Court must be met and additional cooperation will be needed. Most obviously, States need to execute warrants of arrest or support the execution of those warrants in accordance with the Rome Statute and their international obligations. Broader support will also be needed in protecting witnesses and agreeing to enforce sentences. States which have not yet done so are invited to enter into negotiations with the Court to conclude agreements on the protection of witnesses and the enforcement of sentences.

Most critically, it is vital that States, international organizations and civil society continue to respect and to ensure respect for the Court's independence and its purely judicial mandate. Their statements or their silence in certain circumstances can have significant impact on the effectiveness of the Court. Similarly, it is important to avoid any misperceptions with respect to the judicial nature of the Court or to the relationship between justice and peace. The creation of the ICC in 1998 was based on the conviction of States that justice and peace are complementary. The Court's mandate and its independence must then be reaffirmed and respected. It is particularly important to do so where the circumstances seem difficult.

As well as the tenth anniversary of the Rome Conference, this year marks the sixtieth anniversary of the adoption by the General Assembly of two groundbreaking legal texts: the Convention on the Prevention and Punishment of the Crime of Genocide, and the Universal Declaration of Human Rights. The former made clear the fundamental and universally

accepted principle that the prevention of the worst crimes requires that perpetrators be punished. The latter gave voice to the equally fundamental and universal principle that justice must be independent, impartial and equally applied without distinction.

Those principles today are embodied in the Rome Statute, as was the will of States and in the activities of the International Criminal Court. That there was need for the Court is a testament to how often those principles were violated in the past.

That the Court was in fact created is a testament to the international community's commitment to putting an end to impunity and to establishing a new politics based on justice and the rule of law. How well we succeed in realizing those commitments is up to us. The Court will do its part, but the support of this body — the General Assembly — and all of its Member States, which worked so tirelessly for the creation of the Court, will be critical.

Mr. Renié (France) (*spoke in French*): I have the honour to speak on behalf of the European Union. The candidate countries Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia, and the European Free Trade Association country Iceland, member of the European Economic Area, as well as Ukraine, the Republic of Moldova and Armenia, align themselves with this statement.

I would first like to express my gratitude to the Presidents of the International Court of Justice and the International Criminal Court (ICC) for the submission of their respective reports (A/63/4 and A/63/323). The International Criminal Court's fourth very comprehensive report demonstrates that it is an active institution that is now able to accomplish the mission for which it was established.

In the period under review, namely, 2007 to 2008, the International Criminal Court indeed made substantial progress in conducting investigations and prosecutions in the four ongoing proceedings, involving in particular the Democratic Republic of the Congo, the Central African Republic and the Sudan. Significant developments have also taken place in court proceedings. The Court has been asked to rule on procedural issues that are critical to the trials ahead. That is especially the case as regards the participation

of victims and the rights of the defence, which are two fundamental aspects on which the judges had to rule as part of the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

During the same period, the Court continued to enjoy the active and necessary support of States, primarily the member States of the European Union, in order to promote the goal of universality, which underpins the full application of the Rome Statute.

The latest ratifications from Suriname and the Cook Islands, which were very symbolic in that they were made during the tenth anniversary commemoration of the signing of the Rome Statute, have helped bring the number of States parties to 108. The progress also illustrates that the efforts made to promote the universality of the Rome Statute have been successful. In that context, the European Union and its member States are more willing than ever to maintain their support to ensure the membership of as many States as possible and guarantee the integrity of the Rome Statute.

Effective cooperation with the International Criminal Court is essential to enable the Court to accomplish its mission, as evidenced by the arrests of Germain Katanga, Mathieu Ngudjolo Chui and Jean-Pierre Bemba, which would not have been possible without the support of States parties.

The action of the Court must continue to be matched by all States, so as to ensure that persons subject to an arrest warrant are handed over and that justice is served. In that regard, the European Union is firmly committed to supporting the Court, so that all arrest warrants are executed quickly, especially in Darfur and Uganda. It recalls the Government of the Sudan's obligation to cooperate with the Court under United Nations Security Council resolution 1593 (2005). The obligation to cooperate with the International Criminal Court is non-negotiable. The European Union once again calls on the Government of the Sudan to fully cooperate with the ICC in order to implement the decisions of the Court.

The European Union continues to believe that combating impunity and realizing the Court's objectives also include implementing the principle of complementarity established by the Rome Statute. However, that principle presupposes that States have implemented the provisions of the Statute at the national level and that they have in place a judicial

system that allows them to prosecute and try in the first instance those who have committed the most serious crimes on their territory.

In that regard, in a context where the use of universal jurisdiction is currently under debate — and not without some confusion — it is worth recalling that the Court is an international court that draws its legitimacy and prerogatives from the terms of an international treaty.

Lastly, we should note that there have been significant new developments in relations between the European Union and the Court: first, with the signing of a cooperation agreement in 2006, and then, last April, with the formalization of arrangements for the exchange and protection of classified information. Those developments have paved the way for further operational cooperation. As the report indicates, an operation under the European Security and Defence Policy, namely, the European Union military operations in Eastern Chad and North-Eastern Central African Republic, will, for the first time, support the Court in Chad, mainly in terms of security and logistics.

I should now like to say a word regarding the functioning of the Court in order to welcome the election of new judges and a new Registrar. In addition, we would like to emphasize that we believe that the recent appointment of former ICC Judge Navanethem Pillay as United Nations High Commissioner for Human Rights can only serve to strengthen the natural link between the protection of human rights and international criminal justice.

Finally, with regard to victims, the European Union welcomes the Court's advocacy and communication efforts, especially in the Democratic Republic of the Congo and Uganda. We urge that those efforts be extended to all situations.

The European Union is also pleased to note the participation of victims at trial. Being able to involve civil society and to reach the people affected is indeed essential. We also hope that the work of the Trust Fund for Victims will soon be fully visible to all and that it will remind the victims of crimes within the jurisdiction of the Court that the Statute was also established for them.

The Court is a fundamental tool, both to combat impunity when the most serious crimes undermining the very essence of humankind are committed and to

prevent and deter the use of violence. The European Union is, and will remain, firmly committed to the Court in achieving those goals.

Ms. Guy (Trinidad and Tobago): Trinidad and Tobago has the honour and privilege to speak on behalf of the members of the Caribbean Community (CARICOM) that are States parties to the Rome Statute of the International Criminal Court (ICC) on the report of the Court contained in document A/63/323. We would like to take this opportunity to thank Judge Kirsch, President of the ICC, for his report on the work of the Court.

This year marks the tenth anniversary of the adoption of the Rome Statute of the International Criminal Court. We were pleased to be part of the activities that commemorated that landmark event here at United Nations Headquarters. During the celebrations, we joined others in saluting the efforts of the international community aimed at establishing the only permanent international tribunal charged with prosecuting those accused of war crimes, crimes against humanity and genocide.

Of particular significance to us was the honour bestowed on former President and Prime Minister of the Republic of Trinidad and Tobago, The Honourable Arthur N. R. Robinson, for his contribution to international criminal justice and his pioneering work, together with others, that led to the establishment of the Court. We continue to play our part towards achieving the universality of the Rome Statute. In that regard, we also wish to congratulate Suriname on its accession to the Statute in July of this year.

In a relatively short period, 108 States Members of the United Nations have become parties to the Statute and have undertaken to bring an end to impunity by holding accountable those persons accused of committing crimes that shock the conscience of humankind. Those States have conferred on the ICC jurisdiction to prosecute those crimes referred to in article 5 of the Statute. Over the past 10 years, the ICC has shown that it is an independent and impartial tribunal with a bench of highly qualified judges and a cadre of competent professional staff.

The achievements of the Court in respect of matters emanating from the Democratic Republic of the Congo, Uganda, the Sudan and the Central African Republic show that it is at the centre of the system of international criminal justice. The ICC has surpassed

the expectations of its supporters and dumbfounded some of its staunchest detractors.

The Court continues to demonstrate fairness and impartiality, and at the same time it has scrupulously observed the fundamental tenets of due process. Such impartiality and independence were observed in the case of Thomas Lubanga Dyilo, where Trial Chamber I issued a stay of proceedings and ordered the unconditional release of Mr. Lubanga, subject to appellate proceedings. We eagerly await the outcome of the case, which has been referred back to the Trial Chamber for determination by the Appeals Chamber. We remain firm believers in the integrity of the judicial process and the neutrality of the judges.

Without the cooperation of States parties, it would be difficult, if not impossible, for the ICC to fulfil its mandate. We are of the view that States must respect their treaty obligations and cooperate with the Court to the benefit of all of us who are advocates for justice, and especially to bring relief to the hapless victims of crime. The effective and timely cooperation of States parties is essential to the execution of arrest warrants, the surrender of accused persons and the protection and relocation of witnesses. The cooperation of States would also ensure that the rights of victims to participate in the trials of alleged offenders are not compromised. We therefore call on all States parties, especially situation countries, to cooperate fully with the Court in the interest of promoting international peace and justice and an end to impunity. Nonetheless, we recognize the progress made by the Court in conducting its business with the aid of States parties and other entities.

We nevertheless must stress that it would be difficult, especially in situation countries, to promote a regime of international peace and justice without cooperation with the Court. Peace and justice are twin ideals that are recognized in both the United Nations Charter and the Rome Statute. The pursuit of either one must never be allowed to imperil the attainment of the other.

The Rome Statute contemplates an ICC that has complementary jurisdiction with those of national courts. States parties have an obligation to implement in their domestic legal systems legislation to give full effect to their obligations under the Statute. Consequently, we request that States parties take the necessary measures to enact domestic legislation, in

keeping with their commitments under the Statute, as soon as possible. Additionally, we also appeal to States that have not as yet done so to ratify the Agreement on the Privileges and Immunities of the ICC.

The preamble to the Rome Statute contemplates cooperation between the ICC and the United Nations. During the past year, we have witnessed increased cooperation between both bodies, most notably in the Central African Republic and the Democratic Republic of the Congo. Such collaboration is further testimony to the importance of multilateral initiatives in addressing issues of grave concern to all members of the international community.

Moreover, pursuant to the provisions of the Relationship Agreement between the United Nations and the ICC, the United Nations was able to provide facilities and services for the successful hosting of both the sixth and the resumed sixth sessions of the Assembly of States Parties. The hosting of the Assembly at United Nations Headquarters has resulted in increased participation by States parties and enhanced the visibility of the Court to the wider United Nations system.

Article 36 of the Rome Statute provides for very complex criteria for the election of judges to the ICC. CARICOM States parties recognize the need for the Court to have judges who not only are highly qualified and of high moral character, but who also possess the requisite experience in international law, or criminal law and procedure, and who qualify for appointment to the highest judicial offices in their countries. We strongly believe that any derogation from those standards could negatively affect the ability of the Court to adjudicate on those crimes provided for in article 5 of the Rome Statute.

It is for that reason that CARICOM has endorsed the candidature of Justice Mohamed Shahabbudeen of Guyana for election as a judge of the ICC at the elections scheduled for the resumed seventh session of the Assembly of States Parties in January 2009. That candidature has also been endorsed by the Group of Latin American and Caribbean States. Justice Shahabbudeen has served as a judge on the International Court of Justice and is currently a judge in the Appeals Chamber of the International Criminal Tribunal for Rwanda, as well as a judge on the International Criminal Tribunal for the former Yugoslavia. We would therefore welcome the support

of all States parties for the candidature of that illustrious and eminently qualified jurist.

In conclusion, CARICOM States parties reiterate our commitment to the principles and objectives enshrined in the Rome Statute of the ICC. We remain convinced that an important pillar in the maintenance and promotion of the rule of law at the national and international levels is the existence of a permanent international criminal tribunal with jurisdiction to prosecute all those whose actions undermine international peace and security. The imminent closure of the ad hoc tribunals established by the Security Council makes the ICC an essential element of the international criminal justice system. There must be no safe haven for the perpetrators of the most serious crimes of concern to the international community. We will continue to work with States and other entities to provide for a strong, independent and effective ICC that we can bequeath to future generations.

Mr. Hill (Australia): I have the honour to speak on behalf of Canada, New Zealand and Australia (CANZ). We thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for his presentation of the report of the important work of the ICC.

The Court, in our view, is making significant steps forward. In the past year, the Court has issued four new warrants of arrest — three in the situation in the Democratic Republic of the Congo and one in the situation in the Central African Republic. CANZ welcomes and commends the actions of the Democratic Republic of the Congo in surrendering Germain Katanga and Mathieu Ngudjolo Chui to the Court and Belgium in arresting and surrendering Jean-Pierre Bemba Gombo to the Court. Those surrenders provide examples of the results that can be achieved through close cooperation with the Court.

CANZ recognizes that the Court continues to face challenges, particularly where it is entirely reliant on cooperation and support from others to fulfil its mandate. It is of the utmost importance that States rise to meet those challenges. Failure to do so risks the international community betraying the victims of serious crimes. CANZ encourages all States to assist the Court through practical measures.

CANZ also calls upon all relevant actors, including the authorities in Uganda and the Democratic Republic of the Congo, to cooperate closely with the

Court and one another in ensuring the full implementation of their obligations under the Rome Statute, including the execution of outstanding arrest warrants, and in assisting the Court to fulfil its mandate.

We again call on the Government of the Sudan to help bring an end to impunity for the most serious international crimes. In particular, we urge the Government of the Sudan to cooperate with the Court and to take all necessary steps to arrest Minister of State for Humanitarian Affairs Ahmad Harun and to transfer him and militia leader Ali Kushayb to the Court for trial. Acting on the arrest warrants will demonstrate not only respect for the rule of law, but also support for international criminal justice generally.

The judicial work of the Court has continued apace, with preparations for trials continuing and the Court deciding on the confirmation of charges and applications for victim participation. Those are all signs of a Court that is conducting itself professionally, expeditiously, without political interference and according to its mandate.

Universal ratification of the Rome Statute is crucial to the Court's success. If we are to ensure that the perpetrators of the world's most egregious crimes are denied a safe haven, we must step up our collective efforts to promote the universality of the Rome Statute. We are pleased that there have been three additional ratifications and accessions to the Rome Statute in the past year. We welcome Madagascar, Suriname and the Cook Islands as parties to the Rome Statute. It is notable that there are now 108 States parties — over 55 per cent of the United Nations membership.

CANZ have continued its efforts at the regional level to encourage further ratification. Australia and New Zealand, for example, have worked over the past year with Pacific island States to encourage their ratification and implementation of the Rome Statute. In August, New Zealand and Australia participated in a regional seminar held by the Samoan Government to raise awareness of the Court and develop a model Pacific law for the Statute's implementation.

Since September 2000, Canada's Global Peace and Security Fund has provided more than \$10 million in funding to support events and projects that promote ratification and implementation of the Rome Statute, assist with the effective functioning of the Court and other international criminal tribunals, and provide

education and outreach related to the Court and other international criminal tribunals. Through the Fund, Canada supported the publication of the third edition of the *Manual for the Ratification and Implementation of the Rome Statute*.

On 17 July 2008, we celebrated the tenth anniversary of the adoption of the Rome Statute. The anniversary provided an opportunity to reflect on the Court's achievements and reinforce our collective support for it. In that relatively short period of time, the Court has established itself as a central institution of international criminal justice.

Providing a permanent, impartial and fair process for the investigation and prosecution of those accused of serious international crimes is a key component in the fight for international justice. We are convinced that having mechanisms to promote and ensure justice in conflict situations can only contribute to sustainable peace.

As noted earlier, the Court has now reached a crucial stage of its development, and it has become clear that the establishment of a global justice system brings with it many challenges. The Court needs our full support and cooperation to bring individuals responsible for the most serious violations of international law to justice without delay. In particular, we must ensure that any use of article 16 to defer cases is only contemplated in exceptional circumstances. To fail to do so would represent a failure to ensure justice for egregious international crimes.

With the Court now six years old, we are firmly on the path to justice being a reality for perpetrators of serious crimes worldwide. That path will lead to enhanced respect for, and adherence to, the international rule of law. CANZ will continue to provide the Court with our strong and unwavering support. We call on all Member States to do the same.

In closing, it would be remiss of me, on the occasion of President Kirsch's final report to this Assembly, not to express, on behalf of CANZ, our deep appreciation for his impressive leadership of the Court over its formative years and to wish him well in his future endeavours.

Mr. Maurer (Switzerland) (*spoke in French*): My delegation would first like to thank President Philippe Kirsch for his presentation of the fourth annual report of the International Criminal Court (ICC) (see

A/63/323), reviewing the Court's work and the main facts concerning its relations with the United Nations. We would also like to express our gratitude to all the staff members of the Court for their work and for their daily efforts to accomplish their extremely difficult tasks.

While the Statute provides the Court with the legal means to fulfil its tasks, it does not grant it the competence to implement its decisions. The Court therefore relies heavily on the cooperation of States to accomplish its tasks. In that regard, we very much welcome the cooperation of certain States, which has, in particular, made possible the transfer, in the course of the year under review, of three defendants in connection with the situations in the Democratic Republic of the Congo and the Central African Republic.

However, we are concerned that at the moment no less than seven arrest warrants are still pending execution. In that connection, my delegation would like to reiterate that, in accordance with the Rome Statute and obligations under the Charter of the United Nations, it is the responsibility of States to support the Court and to cooperate fully with it. Without the cooperation of States, the Court will simply not be able to fulfil the mandate that has been entrusted to it.

As underlined in the report presented by President Kirsch (see A/63/323), the cooperation of States is not limited to the execution of arrest warrants but also covers other activities, such as the protection of witnesses. That cooperation concerns in particular those States affected by situations being examined by the Court, as well as their neighbouring States. Switzerland considers the protection of witnesses to be a central element in the proper administration of international criminal justice. We therefore commend the measures taken and the new methods of protection put in place, in cooperation with national and local authorities, to strengthen witness protection.

Also in the area of cooperation, my delegation welcomes the continuing collaboration between the United Nations and the Court. That cooperation is essential at several levels, especially for the facilitation of the Court's operations on the ground. It is imperative that it should continue in the future.

Over the past year, some criticism of the Court has been voiced in connection with the institution of proceedings and with requests for arrest warrants. My

delegation believes that such criticism is proof and example of the fact that the Court today is well established and anchored in the international system and that its activities have a tangible impact. The debates with regard to the Court demonstrate the importance and the relevance that it has acquired since the adoption of its Statute 10 years ago.

Finally, my delegation would like to reiterate that Switzerland continues to believe that justice and peace are mutually reinforcing and fundamentally complementary, and even inextricably linked. International criminal justice is a key element in the fight against impunity and in the strengthening of the rule of law. Those elements are central in all societies that have experienced the devastation of war. The most serious crimes affecting the international community as a whole must not go unpunished. There can be no doubt that the prosecution of those crimes contributes to peace and reconciliation. That is why Switzerland believes that peace processes that aim at establishing lasting peace and security cannot dispense with justice.

In conclusion, I would like to stress once again that Switzerland remains committed to and continues to support the Court, its activities and its independence.

Mr. Barriga (Liechtenstein): We would like to thank the President of the International Criminal Court (ICC), Mr. Philippe Kirsch, for presenting the report of the ICC (see A/63/323) to the General Assembly.

We are satisfied that the Court has continued to make progress in its judicial work, considering in particular that in the early stages of its life the Court has had to take difficult decisions that will serve as precedents for many years to come.

We particularly welcome the additional arrests made with respect to the situations in the Democratic Republic of the Congo and the Central African Republic. During the reporting period, the number of suspects in custody of the Court rose from one to four. It is expected that up to three trials will take place in 2009. At the same time, we are gravely concerned that seven arrest warrants are still awaiting execution; some of them have waited for more than three years.

The Court today shows many signs of being a healthy judicial institution, including a vibrant legal dialogue between its organs as several cases move along. That should be encouraging for States parties

and observers alike. It may be true that the Prosecutor's actions receive the greatest attention in the media, as is often the case with judicial institutions, but the actual record of the Court over the past year shows that there is a clear balance between all the organs of the Court, as envisaged by the Rome Statute.

At every step of the proceedings, decisions are delivered by judges acting in chambers — collegial organs composed of fully independent and impartial personalities representing all the regions and legal systems of the world, with almost half of them being women. We fully trust their capabilities and integrity, which they have proven many times already during the first years of the Court's existence, in the interests of due process and justice.

While the Court has continued to fulfil its mandate under the Rome Statute and in accordance with the United Nations Charter, its activities have received extraordinary attention in the public sphere over the past months. That is particularly true for the Prosecutor's application for a warrant of arrest against the President of the Sudan, which is currently under consideration by a pre-trial chamber. As a State party to the Rome Statute, we fully respect the independence of the Court and will therefore not comment on the specifics of cases before the Court.

We have also on several occasions commented on what is often, in simplistic terms, referred to as the question of peace versus justice, which would require its own separate debate. Our views on that complex issue are well known. They are based on the principle that amnesty or any other form of impunity for genocide, war crimes and crimes against humanity are unacceptable under international law. We would, however, like to take this opportunity to comment on questions raised in that context regarding the jurisdiction of the Court.

The ICC is an independent judicial institution established by a treaty, the Rome Statute. At the same time, however, its jurisdiction is in principle based on two different and separate legal authorities. On the one hand, the Court may exercise its jurisdiction on the basis of the consent of States, most importantly via the ratification of the Rome Statute or a special declaration to that effect. Three out of the four current cases are based on such State consent. In fact, those three States have specifically asked the Court to open investigations into crimes committed on their territory.

On the other hand, the Court may exercise jurisdiction on the basis of a Chapter VII mandate by the Security Council. In that instance, the ICC acts very much like an ad hoc tribunal established by the Security Council itself. The obligation for all States concerned to cooperate with the investigation emanates not solely from the Rome Statute, but from a Security Council resolution — such as resolution 1593 (2005), referring the situation in Darfur to the ICC. That obligation to cooperate is firmly rooted in the United Nations Charter and is in principle not any different from the obligation to cooperate with the Tribunals for the Former Yugoslavia and for Rwanda. We therefore call on all States concerned to abide by their obligations under international law and to cooperate fully with the Court.

We welcome the new States parties to the Rome Statute, bringing its number to 108 and thus another step closer to universality. We also respect the approach of some States that continue to evaluate the merits of ratification or accession. We encourage them, once again, to enter into a dialogue with the Court and with other States parties on related questions. We would suggest that the argument I made earlier regarding the two distinct bases for the Court's jurisdiction also has important implications for any non-State party assessing the value of joining the Rome Statute.

As a matter of fact, every State in the world is already potentially subject to the Court's jurisdiction by way of a Security Council referral. In that sense, every State is already part of this common venture to end impunity, and incurs important legal obligations. However, only States parties to the Rome Statute are also rewarded with important rights. States parties find themselves under the protection of the Court, which may open investigations into crimes committed on a State party's territory, thereby contributing to the prevention of such crimes. That protection applies not only to crimes committed by nationals of States parties, but also to crimes committed by foreign forces.

Furthermore, States parties have the right to contribute to the institutional framework of the Court, *inter alia*; by nominating and electing judges and other senior officials and by deciding on the Court's budget. The Rome Statute provides an elaborate system of accountability in which States Parties play a central role.

In sum, becoming a State party to the Rome Statute brings clear benefits to any State that is committed to preventing and punishing genocide, war crimes and crimes against humanity on its territory. In turn, every ratification of the Rome Statute constitutes another step towards more effective rule of law at the international level.

I would like to emphasize that Liechtenstein has been a long-standing supporter of the International Criminal Court and that we are proud to have been entrusted with the presidency of the Assembly of States Parties for the next three sessions. During that time, States parties will discuss possible amendments to the Rome Statute, most prominently with respect to the crime of aggression. The Review Conference at which the respective decisions will be made is now only about a year and a half away. We encourage all delegations to continue to participate actively and with a constructive spirit in its preparation. The Conference has the potential to turn the Rome Statute into an even greater achievement than it already is today.

Mr. Chávez (Peru) (*spoke in Spanish*): I would like to thank the President of the International Criminal Court, Judge Philippe Kirsch, for being with us today and for his interesting presentation on the work of the Court in the past year.

On 17 July, we commemorated the tenth anniversary of the establishment of the International Criminal Court. Significant progress has been made since the Court took up its functions on 1 July 2002, but the Court, States and the United Nations still have a long way to go.

First of all, true universality must be achieved. Unfortunately, many States still have neither ratified nor acceded to the Rome Statute. Peru therefore calls on those States that have not yet done so to ratify or accede to the Statute in order to give it a truly universal scope.

Moreover, if the Court is to achieve its objectives, the cooperation of States is also necessary. In that regard, States must comply with their obligations under the Rome Statute by facilitating the exchange of information; enforcing the warrants issued by the Court; detaining the accused and, when necessary, transferring them to the Court; protecting witnesses and victims; and implementing and aligning their national laws with the Statute. It is therefore of concern that individuals for whom the International

Criminal Court has issued warrants of arrest have not yet been detained for trial or delivery to the Court. Peru urges those States wherein those individuals are located to cooperate with the Court, to immediately detain them or to provide information on their possible location. We recall that there can be no lasting peace or security if the perpetrators of crimes enjoy impunity.

With regard to the progress made in Peru's cooperation with the International Criminal Court, I note that my country has already integrated a section pertaining to international judicial cooperation into our criminal procedural code, which is dedicated to the further development of part 9 of the Rome Statute to ensure its effective implementation. Such concrete action can be replicated and we therefore call upon those States that have not yet done so to implement the Rome Statute in their national laws.

With regard to cooperation between the International Criminal Court and the United Nations, the Relationship Agreement between both institutions has enabled the Court to accomplish valuable work, particularly in those regions where the United Nations is operating in the field, and to publicize and raise awareness of the Court's work. We trust that such cooperation will be increasingly close and coordinated so that the Court can draw on the support of the different organs of the United Nations, especially the Security Council.

Mr. Monthe (Cameroon), Vice-President, took the Chair.

However, the Court needs more than such support. It also needs its own premises in order to be able to carry out its work in the best possible conditions. For that reason, Peru wishes to thank the Oversight Committee for its work in preparing for the establishment of the headquarters of the Court. We hope that at the next meeting of the States parties efforts will continue to ensure that the construction of the Court's headquarters may begin shortly.

During the current judicial year, 3,443 communications were received in accordance with article 15 of the Rome Statute. We also wish to underscore that States and the Security Council alike have referred situations for consideration to the Court. That deserves the attention of the international community, as those situations may include potential cases of war crimes, crimes of genocide or crimes against humanity. Therefore, Peru wishes to reaffirm

its full support for the work of the International Criminal Court, and wishes in particular to acknowledge the outstanding work of the judges and officials who are working in the fight against impunity and thus towards peace, security and the well-being of humankind.

Finally, one pending task is the definition of the crime of aggression. The work accomplished by the Special Working Group on the Crime of Aggression has made a valuable contribution in this regard. Peru hopes that, at the seventh session of the Assembly of States Parties to the Statute of the International Criminal Court, further substantial progress can be made towards defining the crime of aggression with a view to the upcoming Rome Statute Review Conference in 2009.

Mr. Pérez Pérez (Cuba) (*spoke in Spanish*): My country has supported and will continue to support the establishment of an impartial, non-selective, efficient and just International Criminal Court that complements national justice systems, is truly independent and free from subordination to political interests that could distort its essence.

The International Criminal Court's lack of independence is a cause for concern, given how its relationship with the Security Council has been defined. Article 16 of the Rome Statute grants power to the Council to suspend the Court's investigations or indictments, and article 5 purports that the future regulation of jurisdiction of the Criminal Court's be subject to the Security Council's determination of whether or not an act of aggression has been committed by a State. Those two elements cast doubt on the true efficiency and independence of the Court.

The Cuban delegation has participated with particular interest in all phases of the process to establish the International Criminal Court and recognizes the relevance of the Rome Statute to international law. However, even the most modest expectations raised at the outset of the process, such as the elaboration of a definition of the crime of aggression, have not yet been met. We hope that the Special Working Group on the Crime of Aggression, which is open to participation by all United Nations Member States on an equal footing, can satisfactorily complete as soon as possible its work to draft a broadly accepted definition of that crime that will permit its perpetrators to be tried and sentenced. In that

connection, we believe that the Assembly of States Parties should give the Working Group more opportunities to function by allocating it more time in its programme of work and by holding intersessional meetings if necessary.

For Cuba, a small country that is under an economic and financial blockade and that has been a victim of constant aggression by the greatest Power in history, it is very difficult to accede the Rome Statute without a clear and precise definition of the crime of aggression. We continue to hold a constructive position on the establishment of an international criminal justice system that is truly impartial, efficient, independent and complementary to national jurisdictions. In that connection, we have followed with interest the development and functioning of this new institution through, *inter alia*, our participation as observer in meetings of the Assembly of States Parties to the Rome Statute.

My delegation reaffirms its readiness to contribute to the application of truly effective international criminal justice that abides by the norms of international law and, in particular, the Charter of the United Nations.

Mr. Barttfeld (Argentina) (*spoke in Spanish*): Argentina expresses its appreciation and gratitude to Mr. Philippe Kirsch, President of the International Criminal Court, for presenting the fourth report of the Court to the General Assembly (see A/63/323).

This year, we are pleased to celebrate the tenth anniversary of the adoption of the Rome Statute and the recognition in the field of international law that the International Criminal Court has achieved since then. The fight against impunity for crimes against humanity, genocide and war crimes is one of the elements that have contributed most to the achievement of peace and stability in international relations. There can be no true national reconciliation in countries in conflict or during the subsequent peacebuilding phase, if we do not ensure adherence to those universal values by bringing to justice all perpetrators of such crimes without distinction. That linkage was stressed by Argentina on many occasions when it was a Security Council member in 2005 and 2006.

There are a number of positive elements to highlight in the report, which covers the period 1 August 2007 to 31 July 2008. While the Rome Statute had received 60 ratifications by 2002, 108

States are now parties as of this year. That demonstrates that the efforts to achieve the universality and full implementation of the Rome Statute are producing results. It should also be stressed that 63 States have already become parties or signatories to the Agreement on Privileges and Immunities of the Court.

During the period covered by the report, the situations in the Democratic Republic of the Congo, Uganda, Darfur in the Sudan, and the Central African Republic were referred to the Court, and legal actions were initiated in each of those cases. Three of those four States referred the situations to the Court themselves. However, the Court depends on the cooperation of States, international organizations and civil society in carrying out its work. While three persons were handed over to the Court, enabling it to take legal action against all of them, we are concerned that there are still seven outstanding arrest warrants.

There has been some progress in the area of cooperation, which is reflected, for example, in the support that the Court has received from the United Nations field missions in the Democratic Republic of the Congo and the Central African Republic. We should also highlight the headquarters agreement between the International Criminal Court and the host country, which entered into force on 3 March 2008. It has strengthened cooperation and facilitated the Court's functioning in The Hague.

As the Court has no police force of its own, cooperation among States, the United Nations, regional organizations and other actors is essential if we are to attain the objectives set out in the preamble of the Rome Statute by the States parties. That is why, at the end of 2006, Argentina implemented, within the framework of its domestic legislation, the provisions of the Rome Statute and relations of cooperation between the Argentine State and the International Criminal Court and ratified the Agreement on Privileges and Immunities of the Court, enabling the Court to carry out its work without impediments on Argentine territory.

Finally, because the purposes and principles set out in the Rome Statute of the International Criminal Court reflect those of the Charter of the United Nations and are therefore universal, Argentina urges all States that have not yet done so to accede to or ratify the Rome Statute in order to guarantee the universality of the fight against impunity.

Mr. Moeletsi (Lesotho): I have the honour to speak on behalf of my delegation. We warmly welcome Judge Philippe Kirsch, President of the International Criminal Court, and thank him for his presentation today. We also wish to register our highest regard and recognition with respect to the elaborate report (see A/63/323) that was presented today to the General Assembly at its sixty-third session.

Lesotho maintains that a balanced and constructive relationship between the United Nations and the International Criminal Court is extremely valuable, as it ensures the well-being of the Court while preserving the independence that it should have to ensure its proper functioning. My country is committed to the mandate of the Court and will continue to support endeavours to ensure an effective, impartial, non-selective, efficient and just Court that promotes and protects the interests of all States parties to the Rome Statute of the Court.

It is our considered view that the Court has already demonstrated its positive impact in identifying the perpetrators of systematic atrocities, thus strengthening the system of international justice and making an important contribution to the search for peace and the promotion of democracy and the rule of law. It will be noted, however, that those tangible milestones are being realized by the Court despite its handicap of having limited powers in some instances. To my delegation, that only reaffirms the importance of United Nations and State cooperation aimed at the future effectiveness of the Court.

My delegation believes that the Relationship Agreement between the United Nations and the Court provides many avenues for mutually beneficial cooperative efforts to establish the rule of law and to end impunity. Ending crimes of impunity requires determined cooperation on the part of interlocutors who have international peace, justice and security as their common goals and aspirations. Cooperation is necessary in the fields of communication, transportation, logistics and security, including protection of victims, witnesses and investigators, and in providing access to suspects and enabling the collection of evidence and documents.

Lesotho is a strong supporter of the International Criminal Court and has consistently and actively defended the integrity of the Rome Statute, and it will continue to do so. The establishment of the Court is

beyond doubt the most significant development in recent years in the long struggle to eradicate impunity for the most serious international crimes and thereby advance the cause of justice and the rule of law.

That point brings me to address an issue of concern to my delegation that was clearly articulated by the Minister for Foreign Affairs of Lesotho, Mr. Mhlabi Kenneth Tsekoa in the plenary of the General Assembly at its sixty-third session on 27 September 2008. The issue in question relates to the abuse of the principle of universal jurisdiction. The Sharm el-Sheikh Assembly of the African Union was seized with the issue of the abuse of the principle of universal jurisdiction by some countries that seem inclined to use this principle to target certain African Leaders.

We recognize that universal jurisdiction is a principle of international law, the purpose of which is to ensure that individuals who commit grave offences, such as genocide, war crimes and crimes against humanity, and who have heretofore enjoyed impunity are brought to justice. This noble principle should be impartially and objectively applied, so that it may not be abused for the political ends of some individuals or countries, as that could endanger international order and security. It is a well known fact that the application of this principle by individual States has been rendered unnecessary by the creation of the International Criminal Court.

If a State is unable or unwilling to deal with certain grave situations, such a matter should be referred to the International Court, which would deal with it impartially. Even the Security Council refers certain situations to the Court. We need only emphasize that the International Criminal Court was created by this world body and must enjoy the support and trust of the entire membership of the United Nations. It must also be immune from external influences.

In conclusion, my delegation wishes to reiterate that Judge Philippe Kirsch's report has reflected continued commitment to international criminal justice and to the importance of the rule of law in the United Nations system and in the international community at large.

Mrs. Juul (Norway): Let me start by expressing Norway's ongoing support for and full recognition of the work of the International Criminal Court (ICC) during the past year. Norway welcomes the Court's

fourth annual report and would like to thank the President of the Court, Judge Philippe Kirsch, for the detailed and informative report (see A/63/323) and his presentation, which reflect the progress made during the period under review.

This July, the States parties to the Rome Statute along with civil society organizations celebrated the tenth anniversary of the adoption of the Statute. Celebrations were held in a number of locations to commemorate the milestone reached ten years ago when a Court was created that would prevent impunity for mass atrocities and bring perpetrators of such crimes to justice when national systems were not able or willing to do so.

The relationship between the International Criminal Court and the United Nations is of great importance. Bringing a climate of impunity to an end requires determined cooperation between actors who have international peace, justice and security as their common goals and ambition. The International Criminal Court is independent, but has strong legal, historical and operational ties with the United Nations.

The United Nations seeks to promote both peace and justice based on human rights. These are distinct but closely related objectives. They may be difficult to achieve simultaneously, but we must strive to do so. In this quest, the International Criminal Court is an effective and important tool for ending impunity and promoting the rule of law.

The interplay between the International Criminal Court and the United Nations is made clear, both in the Rome Statute itself and in the Relationship Agreement between the two parties. The preamble of the Rome Statute reaffirms the purposes and principles of the Charter of the United Nations. In particular, all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

Norway welcomes the strengthening of the relationship between the International Criminal Court and the United Nations. We urge all States and international organizations to support the Court and the United Nations in their efforts to reach their common goals. Justice is also an important building block for peace, and the international community must ensure that the foundation for peace is solid and stands the test of time.

The mere existence of the International Criminal Court is making a significant impact on national systems, which are increasingly geared towards prevention and prosecution. The success of the International Court should therefore never be evaluated solely on the basis of the number of cases it hears. The success of the Rome Statute should be measured in terms of the overall decrease in impunity for such crimes and not in terms of the number of defendants brought to The Hague. Moreover, whenever national authorities investigate, prosecute or issue judgements in cases involving serious international crimes, that in itself reaffirms the core objective of the International Criminal Court, namely that perpetrators of such crimes be held accountable.

However, when national systems are not willing or able to bring perpetrators to justice, the principle of complementarity provides a safety net. This mechanism requires international cooperation, which is of the utmost importance to the activities of the Court. This idea is also stressed in the report itself.

During the period under review, three individuals were surrendered to the International Criminal Court, enabling the Court to begin judicial proceedings against each of them. However, seven arrest warrants pertaining to the situations in Darfur, Uganda and the Democratic Republic of the Congo remain outstanding. This situation is a matter of grave concern for Norway.

The credibility of the Court is not solely dependent on the number of cases brought before it. Nevertheless, the outstanding arrest warrants, four of which have been outstanding for over three years, give cause for concern. We urge all the States involved to fulfil their obligation to make these warrants effective.

With regard to the situation in Darfur, the Prosecutor has reported to the Security Council that the Sudanese Government, in the period under review, is still failing to comply with its legal obligations under Security Council resolution 1593 (2005). We therefore urge the Sudan to cooperate fully with the Court and to comply with its legal obligations without further delay.

We are pleased to note that, with the entry into force of the Rome Statute for Suriname and the Cook Islands on 1 October 2008, there are now 108 States parties to the Statute. That is an important step towards universality. The number of States Parties is rising year by year, and Norway strongly hopes that the International Criminal Court will enjoy universal

adherence in the future. Furthermore, several States became signatories to the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of signatories to 63 States by the end of the period under review. We urge more States to follow suit.

The International Criminal Court is dependent on the cooperation of the States parties. As stressed in the report, the Court relies on cooperation in areas such as facilitating investigations, arresting and surrendering persons, protecting witnesses and enforcing sentences. All States parties must do their utmost to provide the ICC with the best possible working conditions. Norway expects States with legal obligations under the Statute or that have entered into cooperation agreements with the Court to fulfil their obligations and to demonstrate their commitment to justice in practice. We also urge more States to enter into agreements with the Court.

Finally, I would like to reiterate Norway's firm and long-standing commitment to the integrity of the Rome Statute and to an effective and credible International Criminal Court. We believe that the ICC should enjoy the broadest possible support from all States. We also believe that the long-term interests of all nations, irrespective of size, region or political orientation, are served by strengthening the rule of law and promoting justice. We all share the universal values attached to the protection of human dignity. That protection is enhanced by taking concerted action to suppress the most serious crimes affecting the international community as a whole.

Mr. Appreku (Ghana): My delegation wishes to thank the Secretary-General for his note accompanying his submission of the report of the International Criminal Court (ICC) (A/63/323) in accordance with article 6 of the Relationship Agreement between the United Nations and the ICC. My delegation also takes note of the Secretary-General's report on expenses incurred and reimbursements received by the United Nations in connection with assistance provided to the ICC (A/63/471). My delegation also thanks the President of the International Criminal Court, Judge Philippe Kirsch, for introducing the fourth report of the ICC with his thought-provoking address.

The adoption of the Rome Statute demonstrated the commitment of the international community to deterring and punishing impunity through the strengthening of mechanisms for international justice.

The Rome Statute, with its emphasis on individual accountability, serves in many respects to complement and reinforce the Charter of the United Nations, which has State responsibility as its central focus.

The Rome Statute contributes to ongoing efforts to resolve the prevailing tensions and often conflicting tendencies existing between the principle of non-intervention in the internal affairs of States and the undertaking by States Members of the United Nations to honour the obligations they assume under the Charter, including scrupulous respect for their obligation to respect human rights. Through the International Court of Justice's South-West African cases and the various resolutions declaring apartheid to be a crime against humanity, that tension seems to have been settled on the side of a presumption in favour of not allowing States and individuals to claim that matters are essentially within their *domaine réservé* as far as cases of egregious violations of human rights are concerned.

The Rome Statute as properly understood aims at reinforcing that trend, thus ensuring that individuals who commit acts of genocide, war crimes, crimes against humanity and ethnic cleansing cannot justify such heinous acts by abusing the concept of State sovereignty by invoking it as sword of impunity, and then by turning around and trying to hide behind that same State sovereignty by invoking it as a shield of immunity.

In keeping with that positive attitude, the African Union actually took the lead in some respects by enshrining in its Constitutive Act the right of member States to intervene in cases of genocide, crimes against humanity and war crimes. In Africa, we call that principle the doctrine of non-indifference, as opposed to non-interference. However, both the principle of the responsibility to protect — on which African countries were instrumental in achieving a consensus on having it be included in paragraphs 138 and 139 of the 2005 Summit Outcome Document — and Africa's doctrine of non-indifference require further clarification to ensure certainty and predictability as to the circumstances under which they could be engaged with less controversy. To be sure, efforts to promote the universality of the Rome Statute must be sustained if the authority and legitimacy of the International Criminal Court is to be enhanced.

My delegation notes that cooperation between the United Nations and the ICC continued at a satisfactory pace during the period under review. Ghana welcomes the entry into force on 3 March 2008 of the Headquarters Agreement between the ICC and the host State, the Netherlands, which, as acknowledged in the ICC's report, has further enhanced cooperation and has facilitated the Court's smooth operations in The Hague, thus bringing more clarity and certainty to issues that were not adequately covered by the interim arrangements.

Ghana further welcomes the project concerning the digitization of the entire legislative history of the Rome Statute, which is funded by the Court and being undertaken by the secretariat of the Assembly of States Parties and the Codification Division of the Office of Legal Affairs for the benefit of the Court itself, practitioners, academics and the general public. My delegation looks forward to the possibility of having that project linked to the audio-visual library project that was launched by the Under-Secretary-General and the Legal Counsel on Tuesday of this week, which together will strengthen the programmes for the wider dissemination of international law as a universal language.

The role of various partners, including civil society organizations, is also commendable and must be enriched through greater dialogue.

In his introductory address, the President of the International Criminal Court, Judge Philippe Kirsch, highlighted a number of challenges facing the Court that require our collective attention, including the need for adequate resources, some of which will be considered during the forthcoming session of the Assembly of States Parties, in which Ghana looks forward to participating actively. It is also hoped that factors leading to the slow response to requests for the conclusion of agreements for the enforcement of sentences, as well as ways to improve witness protection programmes, will be addressed among other outstanding and pending issues.

My delegation notes that the ICC has not yet completed the full cycle from the trial phase to appeal in any of the cases currently before it. It is our expectation that, by the time the Review Conference takes place in 2010, a sufficient corpus of jurisprudence will have been developed to facilitate a more meaningful review of the Rome Statute.

In conclusion, my delegation wishes to commend the work of the liaison offices of the ICC, as well as the working groups in New York and The Hague. Ghana would like to reaffirm its commitment to the Rome Statute, aimed at strengthening the rule of law.

In closing, Ghana wishes to express profound appreciation to Judge Philippe Kirsch for his pioneering role in the establishment of the ICC as a novel mechanism. The greatest tribute that we can pay to him — as we hear that he will retire next year — is to rededicate ourselves to ensuring that this unique institution for the promotion of international criminal justice can stand the test of time and become an enduring legacy.

Mr. Okuda (Japan): Let me begin by thanking President Philippe Kirsch for his insightful report (see A/63/323) on the most recent work of the International Criminal Court (ICC) and by congratulating the Court on its increasingly important role in the fight against impunity in the international community.

Japan believes that we are now experiencing a crucial period for the ICC to define its role in the international community. In 2002, the ICC was established as the first permanent international criminal court. In contrast to the procedure for ad hoc international criminal tribunals, any State party may refer a situation to the Court, and the Security Council also has the authority to refer a situation to it. In the six years since the Court's establishment, three States parties have referred their situations to the ICC and one situation has been referred by the Council.

On the basis of our relatively brief experience, we have been able to strongly reaffirm the importance of cooperation by States. In cases in which full cooperation has been extended by the States concerned, the ICC is making steady progress. Where such cooperation is not available, the ICC is faced with serious challenges.

Ten years have passed since the adoption of the Rome Statute, but we must not forget the difficulties that we encountered during the negotiations for its creation. Although we finally came to agreement on the text and the Statute entered into force in 2002, unless its provisions are implemented with the utmost prudence, we will not succeed in firmly establishing the credibility and reputation of the ICC.

One of the most important principles to be kept in mind is that of complementarity. Every State has the duty to exercise criminal jurisdiction over those responsible for the most serious crimes, and the role of the ICC is complementary to such national criminal jurisdictions. States parties must do their best to exercise their national jurisdiction before referring a situation to the ICC. Moreover, in referring a situation, a State party must be prepared to cooperate fully with the ICC by fulfilling the obligations set out in the Rome Statute.

The Security Council also may refer a situation to the ICC. However, the decision to bring a situation before the Court entails heavy responsibility, and the Council must continue to cooperate closely with the ICC on the implementation of its decision. If the Security Council makes the decision to refer a situation to the ICC, in accordance with the Charter of the United Nations, States Members of the United Nations are legally bound by the Council's decision. They are required to cooperate fully with the ICC in its investigation and prosecution. The ICC, for its part, must provide a full explanation of its actions so that it can enjoy the full support of United Nations Member States.

Today, there are 108 States parties to the Rome Statute. Japan is pleased to observe the steady increase in that number. Nevertheless, in order to enhance the role of the ICC in the international community, the Court's membership must become more universal. To that end, it is essential that more States become parties to the Rome Statute. Japan will play its role in efforts to increase the number of States parties, especially in the Asian Group, which is less well represented than other regions.

It is Japan's hope that the ICC will continue to work diligently to eradicate the culture of impunity and to consolidate its reputation. In that regard, Japan is determined to continue and strengthen its contribution to the ICC and to the development of the international criminal tribunal system as a whole.

Mr. Ahmed (Nigeria): The Nigerian delegation thanks the Secretary-General for the report on the International Criminal Court (ICC) for the judicial year 2007-2008 (see A/63/323), submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the Court. My delegation also thanks Judge

Philippe Kirsch, President of the ICC, for the clarity of his address. We are appreciative of the Court's relentless efforts in carrying out its mandate as an independent judicial institution charged with investigations into and trials of individuals for the most serious crimes of international concern — genocide, crimes against humanity and war crimes.

Nigeria is deeply committed to the ICC, whose establishment we recognize as one of the great advances in the area of international law. The Court's function of ensuring accountability for grave crimes is vital to the maintenance of lasting international peace and security. In order to strengthen its ability to effectively discharge that most important responsibility, the Court relies on the cooperation of States, international organizations and civil society, in accordance with the Rome Statute and international agreements concluded by the Court. Such cooperation is critical to ensuring proper investigations, the execution of outstanding warrants of arrest, the surrender of persons, the protection of witnesses, the enforcement of sentences and the enhancement of the Court's credibility as an effective tool to end impunity and contribute to the prevention of future crimes.

We welcome the increasing number of States that have become States parties to the ICC treaty. With more than two thirds of the United Nations membership having signed or ratified the treaty, there is clear movement towards the Court's universality. This welcome development is worthy of further support by those States who have yet to sign or ratify the Rome Statute.

We have taken note of efforts by the ICC to improve geographical representation, gender balance and the representation of the different legal systems of the world in its recruitment activities in accordance with resolution ICC-ASP/1/Res.10 of the Assembly of States Parties. As we commend those efforts, we wish to underscore the need for the ICC to achieve the target of wide geographical representation and gender balance, especially in regard to the African region, which, in spite of the fact that it provides most, if not all of the situations before the Court, is still underrepresented. We believe that the necessary balance can be attained without compromising the quality of staff selected.

The Nigerian delegation considers victims as a critical component of the justice system and believes

that for them to have the necessary closure, efforts must be made to bring about healing. We are therefore delighted that the Court has so far received applications from 960 victims for participation in the trials and that 168 of them are already so participating.

The ICC currently has four situations — Uganda; the Democratic Republic of the Congo; Darfur; The Sudan; and the Central African Republic — and six cases before it, twelve arrest warrants have been issued, with seven of them still pending. With the expected increase in the number of cases in 2009, additional funding will be needed. We therefore call on all States to disburse their outstanding contributions to the Court to enable it attain its 2009 budget of €105.1 million.

We are pleased to note that the Court has already entered into 10 agreements with States on the protection and relocation of witnesses and 2 agreements with States on the enforcement of sentences. We believe that, in order to encourage more States to enter into such agreements with the Court, the Court needs to become more proactive in exploring ways to facilitate the participation of more developing States in that regard.

The Nigerian delegation realizes that family visits to accused persons involve costs, especially since courts are located far away from the normal places of residence of family members. Although family visits may not be considered a fundamental right, refusal of such visits could nonetheless demoralize both family members and the accused themselves. We understand that the issue will be discussed during the seventh session of the Assembly of States Parties, to be held at The Hague in November. We hope that due consideration will be given to all aspects of that important matter before arriving at a decision.

The situation in the Darfur region of the Sudan has aroused a great deal of interest in the international community, especially since the ICC Prosecutor's initial report to the Security Council (see S/PV.5216). Since then, there has also been a request for deferral duly brought under article 16 of the Rome Statute of the ICC. We believe that the request — which is a legally backed process and which does not imply a conflict between peace and justice — should be allowed to run its course. We are also confident that the international community will not allow a politicization of the process.

In conclusion, the Nigerian delegation reiterates its commitment to and continued support for the International Criminal Court.

Mr. Muita (Kenya): My delegation believes that the establishment of the International Criminal Court (ICC) is an enormously significant advancement in international law. We recognize the Court's unique judicial role and, in particular, the important part it is playing in our efforts to put an end to impunity through the prevention of the most serious international crimes and guaranteeing lasting respect for the rule of law. Impunity not only encourages the recurrence of abuses, but also strips human rights law and humanitarian law of their deterrent effect. Therefore, the Court provides an enforcement mechanism to prevent that.

I would like to take this opportunity to reaffirm Kenya's commitment to its obligations under the Rome Statute. We appreciate the ongoing cooperation and consultation between the ICC and the Office of the Kenya Attorney-General on a broad range of issues. This attests to the recognition and support that my country gives the Court.

My delegation pays tribute to Judge Philippe Kirsch, President of the International Criminal Court, and his team for their excellent stewardship of the affairs of the Court. Judge Kirsch's unquestioned commitment to justice has contributed to the development and success of the Court to date. As he approaches the end of his term, we wish him all the very best.

Kenya welcomes the report of the ICC for the period 1 August 2007 to 31 July 2008 (see A/63/323). It provides us with a very useful framework for evaluating the successes and challenges faced by the Court. As we have seen, implementing the Rome Statute is challenging. My delegation believes the success of the ICC hinges on the collective cooperation of Member States, the United Nations and the Security Council. In particular, the success of the Court depends on widespread ratification of its Statute, given that it is treaty-based and largely depends on the compliance of States parties with their obligations under the law.

We are very encouraged that the number of States parties increased during the reporting period from 105 to 108. This is testimony to the growing acceptance of the universality of the Statute. More recently, the ratification and accession by Madagascar, the Cook Islands and Suriname was most welcome.

The increasing number of States parties to the Rome Statute and to the Agreement on Privileges and Immunities is testimony to the global judicial character of the Court. In that respect, Kenya congratulates Mexico, the Netherlands, Portugal, and the United Kingdom on becoming parties or signatories to the Agreement on Privileges and Immunities of the Court. We urge the States that have not done so to consider becoming parties to the ICC Statute.

My delegation is concerned that the definition of the crime of aggression is still pending. Similarly, the fact that the Court has not conducted a full cycle of proceedings since its inception is worrying. That state of affairs will have an impact on the first review of the Statute of the Court. However, Kenya believes the challenges are not insurmountable if States demonstrate a willingness, *inter alia*, to cooperate. That is especially true considering that the Rome Statute affords us the opportunity to deal with serious crimes against humanity under domestic law before the ICC can assume jurisdiction. We are convinced that the principle of complementarity is a positive aspect that can help us build upon our quest to promote and protect human rights.

I am pleased to report that Kenya is on course in its endeavour to implement internal mechanisms to expedite domestication of the Rome Treaty. In recognition of our responsibilities with regard to the rule of law and, in particular, the Rome Statute, the Government enacted the Witness Protection Act on 31 October 2006 and has now commenced a witness protection programme, which was launched at the United Nations Office in Nairobi on 1 July 2008. The launch of that programme is a landmark in our domestic criminal justice system. We believe that the incorporation of a financial allocation into the national budget for the 2008-2009 fiscal year will give impetus to our efforts.

Kenya fully supports the inter-Court seminars and diplomatic briefings held under the auspices of the International Criminal Court and the International Court of Justice, among other international judicial bodies. Those seminars and briefings will certainly promote awareness about the activities of the Court. We also appreciate the Court's outreach programme and the progress achieved through it. Such activities are crucial to our strategy to promote and enhance the dialogue needed to realize the plan of action for the

achievement of the universality and full implementation of the Rome Statute.

My delegation is gratified by the strengthened and enhanced cooperation between the Court and the United Nations, in line with the Relationship Agreement. That cooperation is instrumental to the success of the activities of the Court and should be sustained. We commend the role being carried out by the Court's liaison office in New York. We propose the establishment of a similar framework for the developing world, especially Africa.

The completion of the first phase of the digitalization of the entire legislative history of the Rome process by the Assembly of States Parties and the Codification Division of the Office of Legal Affairs, funded by the Court, is a milestone in the effort to disseminate information about the Court. This resource will be of invaluable use to the international community.

Given that the operations of the International Criminal Court are in harmony with the principles enshrined in the Charter of the United Nations, the Court's work contributes to the maintenance of international peace and security. For that reason, my delegation appeals to States to uphold the model law that they have helped to establish. The commitment of States and all other relevant actors should transcend political considerations in order to help preserve the Court's independence and integrity.

Mr. Badji (Senegal) (*spoke in French*): I should like at the outset to express my heartfelt congratulations to Mr. Philippe Kirsch, President of the International Criminal Court, on the quality of the work that he has accomplished at the helm of that institution and on the detailed information contained in his statement. I also congratulate his fellow judges and the other personnel of that institution.

As members are already aware, Senegal was the first country to ratify the Rome Statute of the International Criminal Court. In addition, one hardly need recall that my country was among the first to sign the international appeal for the establishment of an international criminal court. For those reasons, I once again welcome the opportunity provided by the review of the annual report of the Court (see A/63/323) to reaffirm Senegal's interest in that institution's activities.

Of course, it is difficult to precisely gauge the real impact of the International Criminal Court a few years after it commenced its work. However, Members will certainly agree with me that, in the light of the Court's report, one can say without risk of being wrong that the Court has revived the glimmer of hope that its establishment gave to victims whose hopes and expectations for justice were so constantly disappointed. Today, after several years of tireless efforts and struggles, we have put in place the instrument so eagerly awaited by all women and men of goodwill, who have arduously devoted themselves to ending the horrors and atrocities that have shaken and shattered all humankind.

Obviously, the advent of the International Criminal Court is one of the most valuable achievements of our time in combating the impunity of perpetrators of the most serious crimes. Indeed, with its establishment, the Court has contributed, through its deterrent effect on potential perpetrators of serious crimes, to a decline in the number of atrocities throughout the world that were so common, particularly during the twentieth century.

Moreover, six years after it began its work on 1 July 2002, we can boast of having established a permanent Court with a universal mission — a Court that is fully operational, with ongoing investigations and judicial proceedings in four situations, and that has been acceded to by 108 States parties and enjoys the active support of more than 2,500 non-governmental organizations and civil society. We have also been able to establish a system in which victims participate in proceedings and benefit from protection and assistance.

In short, as so well stated by the Prosecutor of the Court, Mr. Luis Moreno-Ocampo, in November 2003 during the oath-taking ceremony for the Deputy Prosecutor, Mr. Serge Brammertz,

"The creation of the International Criminal Court represents, for the international community, a step comparable to the evolution of over 10 centuries of national criminal justice systems".

However, the very significant progress made during the life of our young institution should clearly not prevent us from fully understanding the complexity and scale of the enormous challenges that we must face in order to complete our joint effort to build an international justice system that can fulfil the legitimate aspirations of peoples to peace and justice.

That is why we must never lose sight of the principles that guided the drafting of the Rome Statute of the International Criminal Court: the need for an international, independent, non-political and representative Court that can work efficiently and effectively to bring to justice those responsible for the most serious crimes; the right of States to shoulder the responsibility for prosecuting such crimes, if they are willing and able to do so; the need to guarantee reparation and adequate compensation to the victims of such crimes; and the need to protect the rights of accused persons and the role of the Security Council in the maintenance of international peace and security in accordance with the Charter of the United Nations. Those principles must always guide the Court if we wish to fully succeed, without any legal tricks or devices, in making it an effective, transparent and non-selective institution.

In reaffirming our commitment to and unfailing support for the International Criminal Court, as well as our commitment to do our utmost to ensure that it has the independence and credibility necessary to eradicate impunity throughout the world, I should like to conclude by solemnly appealing to the entire international community to provide the Court with the cooperation and support it needs to carry out its noble missions.

Mr. Hernández (Mexico) (*spoke in Spanish*): The delegation of Mexico would like to thank the President of the International Criminal Court, Judge Philippe Kirsch, for his presentation of the Court's fourth annual report (see A/63/323), pursuant to the Relationship Agreement between the United Nations and the Court. I would like to pay tribute to that jurist, diplomat and magistrate for all his effort, first in achieving the adoption of the Rome Statute and, secondly, in making the Court fully operational. The international community is indebted to Judge Kirsch.

The report's delivery comes on a special occasion, as we commemorate the tenth anniversary of the adoption of the Rome Statute, which established the International Criminal Court. Mexico celebrates the first decade of existence of an international court whose fundamental challenge is to meet the desire cherished by the international community since the beginning of the last century: to put an end to impunity for the gravest crimes of concern to all of humankind. Ten years following the adoption of the Rome Statute, its universalization remains both a shared aspiration

and a task to be pursued jointly, in the interest of achieving the objectives of international criminal justice, as enshrined in the Statute itself. The Government of Mexico congratulates Madagascar on its ratification of the Rome Statute and congratulates Suriname and the Cook Islands on their accession to the Rome Statute during this year, bringing the number of States parties to 108.

Mexico enthusiastically welcomes the achievements made in the four and a half years since the Court's jurisdiction came into effect, without losing sight of the difficulties and challenges that have arisen in the fulfilment of its mandate. As my delegation has previously stated, both the goal and the challenge of the Court lie in its becoming a model of expeditious, effective and transparent justice. In this context, I would like to convey a number of considerations on behalf of my Government on this judicial body's work.

I turn first to expeditious and effective justice. Ten years ago, the plenipotentiary representatives of the United Nations gathered in Rome to provide the Statute with the necessary minimum tools and mechanisms to fulfil the principle of effective and expeditious justice. To that end, the Rome Statute was equipped with clear and precise Rules of Procedure to safeguard the rights and interests of the parties concerned in specific cases. Mexico underscores the effectiveness of those tools and mechanisms and deems the Rules of Procedure adequate to guarantee full respect for the rights of the accused, victims and other actors. Their application at the various stages of proceedings and the gradual consolidation of the Court's jurisprudence will ensure that the expectations of a model of agile and effective justice are satisfied.

Despite these promising signs, Mexico expresses its concern that, more than two and a half years after the surrender of the first accused to the Court, it has still not been possible to begin its first trial. My Government is fully aware of the challenges that arise in initiating intrinsically complex judicial proceedings and acknowledges that the creation of the Court's own jurisprudence is, by definition, a difficult task. Mexico further recognizes that a lack of cooperation, which I will address later, has been one of the main complicating factors in all areas of the Court's work. Even in this context, the early removal of possible procedural obstacles is fundamental to allowing the Court to exercise its jurisdiction effectively and efficiently, especially when alleged perpetrators are in

the custody of the Court. It is fundamentally important to ensure proper preparation of cases, both throughout the investigation phase and in the manner of obtaining and presenting evidence.

The Court should begin its first trial primarily to bring justice to victims, but also to move forward in building its jurisprudence. It is up to States to fulfil all their obligations without delay, and it is up to the Court to prepare and handle cases in the most diligent fashion possible at every stage, in order to avoid any situation that could encumber its progress and to guarantee full respect for the rights of the accused.

Regarding international cooperation, it was clear 10 years ago that one of the fundamental premises for the International Criminal Court to fulfil its mandate was the full cooperation of States parties in the investigation and prosecution of crimes under the Court's jurisdiction. This fundamental pillar was embodied in article 9 of the Statute. Given the very nature of the investigations carried out by the Court, it is unquestionable that the Court must be able to rely on the firm and immediate support of those States in which investigations are taking place: the situation countries. Moreover, the complexity of the Court's work also obliges the rest of the international community, including international and regional organizations, to cooperate fully with the Court. In this regard, it is essential that States respond rapidly to the Court's requests for cooperation and, above all, that they execute its orders, particularly arrest warrants issued against presumed perpetrators.

Mexico recognizes with satisfaction that, in several instances, the level of cooperation has been excellent; proof of this is the detention and surrender to the Court of Mr. Thomas Lubanga, Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui by the Democratic Republic of the Congo, as well as the recent detention and surrender of Mr. Jean-Pierre Bemba Gombo by Belgium. My Government wishes to extend its deep appreciation to those States for their actions.

Similarly, the cooperation and assistance for the Court's activities extended by various bodies and offices of the United Nations, as outlined in the report, deserve acknowledgment. In spite of this progress, there is still considerable distance to go before the full cooperation required by the Statute is achieved. Seven of the arrest orders issued to date have not yet been

executed, and a number of the investigations being carried out by the Prosecutor's Office in situation States are constantly hindered by a lack of assistance from local authorities. The international community is concerned at the lack of cooperation from the Government of the Sudan, with regard to both the investigations taking place on its territory and the arrest and surrender of suspects of crimes within the jurisdiction of the Court.

International and non-governmental organizations continue to report the existence of generalized attacks against the civilian population in the Sudan. As of today, there have been over 200,000 civilian casualties and nearly 2 million displaced persons from the region since the outbreak of the conflict.

It is equally indispensable that we enhance security for the international humanitarian personnel deployed by the United Nations, who have been the target of attacks. In the case of the United Nations Mission in the Sudan the lack of security has resulted in the death of 38 people. Given these numbers, the existence of a peace process in the region is not sufficiently clear.

Mexico is convinced that peace and justice are inseparable components of any endeavour to end any armed conflict. A false dichotomy between peace and justice only damages the performance of the institutions created to preserve international peace and justice. While these institutions may have different mandates, their role is to complement and reinforce one another. Their role is to ensure that political processes include the elements needed to ensure that there is no room for impunity. The rendering of justice strengthens the search for lasting and peaceful solutions.

The international community cannot ignore the gravity of such situations. On the contrary, it should strengthen its efforts to act on the basis of a model of justice that values the end to impunity more than a political agreement.

With respect to financial efficiency, ten years ago the International Criminal Court was conceived as a model international institution in terms of financial management and administration. The complex and diverse activities assigned to the Court naturally required a large budget to enable it and its different organs to carry out their respective duties. It has been

the Court's responsibility and challenge to find ways to achieve a proper, diligent and transparent administration using the resources granted to it.

Mexico has closely followed the Court's financial development and acknowledges the efforts made and measures taken to use its resources responsibly and efficiently. Nevertheless, there is room for improvement in every financial model. My Government is of the view that there are certain areas that can be fine-tuned to render the Court more fully cost-effective and at the same time ensure that it be able to fulfil its mandate.

Adequate and comprehensive budgetary planning, better financial practices in certain areas and the proper rationalization of resources are fundamental to achieving this goal, particularly in times such as these, times of general financial crisis. Therefore, Mexico will participate actively in the upcoming examination of the Court's budget by the Assembly of States parties and invites all other States to act accordingly.

Ten years ago, 160 States successfully overcame serious difficulties and differences in pursuit of a common cause that finally materialized in the adoption of the Rome Statute and the creation of the International Criminal Court. Today, 108 States have confirmed their commitment to that same cause. Mexico is convinced that they will not waver until justice prevails and all persons responsible for committing the most heinous crimes are held accountable before the International Criminal Court.

Mr. Mohamad (Sudan) (*spoke in Arabic*): We have examined with regret the content of the report presented to the General Assembly on the activities of the International Criminal Court (ICC), including in the Sudan (see A/63/323). It is a document full of exasperating political deceit that is directed at the President of our Republic himself, the symbol of our dignity and of our nationhood. The author of the report is an international prosecutor who has acted unprofessionally and is motivated by a political agenda that has now been unmasked by his fervent hysterical political actions, which are not those of a respectable man of justice and undermine both justice and his position.

The catastrophic actions of the Prosecutor of the International Criminal Court has led him to issue an arrest warrant for the President of our Republic, which is but one additional link in the conspiracy chain that

makes up his shameful political agenda. This action has led to outrage and criticism from all regional organizations, which have asked him to correct the situation in order to ensure peace and security in the Sudan.

The Sudan is not a party to the Rome Statute, which set up the International Criminal Court. This is Sudan's sovereign right, which stems from the Charter of the United Nations and international law and from the 1969 Vienna Convention on the Law of Treaties, which clearly stipulates that the *pacta sunt servanda* principle is an important one and that Member States are not bound by commitments that they have not taken of their own free will. The attempt therefore to impose a convention on a State that is not a member of that convention undermines all norms and established rules of international law.

The ICC should not be a tool in the hands of political organs, since that would undermine its credibility and impartiality. Security Council resolution 1422 (2002), adopted following the entry into force of the Rome Statute, states that States that are not party to the Rome Statute and therefore not members of the ICC are not bound by the provisions of the Rome Statute. They will continue to fulfil their responsibilities in their national jurisdictions. That is what the Sudan is doing, thanks to its competent court system, which is known for its efficiency.

Resolution 1593 (2005), which referred the situation in Darfur to the Prosecutor of the International Criminal Court, is a faulty resolution and contradicts resolution 1422 (2002), which deals with the obligations of States parties and States not party to the Rome Statute. In addition, resolution 1593 (2005) clearly recognizes that States not party to the Rome Statute have no obligation under the Statute. Is that the thrust and universality of the justice that he preaches and seeks? This is the justice of might makes right. Is it right that this report should remain silent about genocide, war crimes and crimes against humanity that are committed on a daily basis throughout the Middle East and Asia? The report resorts to holding the Sudan hostage. If the pretext is based on the policy that Member States must submit to the jurisdiction of the Court, why then are those States that are in a state of war in regions such as the Middle East and Asia not themselves dealt with by the Court?

That is a selective approach based on a system of double standards. That is why the African Union Summit, convened in July 2008 at Sharm el-Sheikh in Egypt, adopted a historic and important decision, in which the African Union expressed its concerns and denounced what is known as universal jurisdiction. All day today we heard nothing but the names of the Democratic Republic of the Congo, the Sudan and the Central African Republic, but we have not heard anything about Iraq or Afghanistan — only about the Sudan, Darfur, the Central African Republic and the Democratic Republic of the Congo.

The Rome Statute, which established the International Criminal Court, stipulates that its provisions shall not run counter to established norms of international law. In that regard, the actions of the Prosecutor are incompatible with the Rome Statute, for he has disregarded well-established immunities under international law in respect of the President of a State, a case that was dealt with by the International Court of Justice. The violation of immunities undermines the principles of sovereignty and leads to chaos, which should not be allowed by the international community. Peace in the Sudan is the best guarantee of international justice. Justice is not achieved by merely turning to a court.

The experience in South Africa is itself proof of the primacy of law, which is an integral part of the road map involving the Sudan, the African Union and the United Nations, which is based on four tracks. The four components of the peace process are the hybrid peacekeeping operation, the humanitarian tier, rehabilitation and development. The actions of the Prosecutor do not comply with that road map, but open the door wide to situations fraught with danger with regard to the security of the Sudan and the region as a whole.

We are confident that the international community supports the peace efforts brought about by the Sudan's People's Initiative, in close cooperation and coordination with the chief negotiator, Djibril Bassolé, in accord with the African-Arab initiative under the presidency of Qatar. The Sudan reiterates its commitment to comply with all of its obligations with regard to the African Union and the United Nations. The international community must protect the peace process against any political schemes. The slogan of justice should not be used as a pretext to exert pressure and to blackmail States. Throughout the day, we have

heard nothing but references to Darfur, the Congo and the Central African Republic.

Ms. Cabello de Daboin (Bolivarian Republic of Venezuela) (*spoke in Spanish*): On behalf of my Government, I would like to convey the support of the delegation of the Bolivarian Republic of Venezuela for the leadership shown by Mr. Miguel d'Escoto Brockmann and to offer him the cooperation necessary for the success of this and future meetings on such important issues as international peace, security and justice, which are the guarantees of the well-being of humankind.

Similarly, we would like to thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for his introduction of the report of the Court (see A/63/323) and to commend him on the results achieved by the ICC in the past year.

From the first discussions on drafting the text of the Rome Statute of the International Criminal Court, my country played an active and resolute role in establishing the ICC, based on the premise that the most serious crimes, which constitute a threat to the international community, must not go unpunished.

In that regard, it is necessary to underscore the importance for States to adopt national measures, aimed at strengthening international cooperation, thus ensuring that those crimes are in fact brought to justice.

It is fitting to recall that my country was the first in Latin America to ratify the Rome Statute and has always upheld the integrity of that instrument against steps taken to undermine it, not only through the rejection of the special immunity agreements established or at times imposed on other countries, but also through the condemnation of the many resolutions that have sought to distort the independence of the Court and undermine the efforts of the international community to achieve universal criminal jurisdiction.

My delegation would like to emphasize that the Bolivarian Republic of Venezuela has placed particular emphasis on preserving the independence and autonomy of the ICC and of its Statute in the ongoing negotiations to define the crime of aggression. Our actions have included submitting a proposal aimed at safeguarding to the utmost the independence of the Court when it is to handle a case involving the alleged commission of a crime of aggression, thus firmly

opposing those who seek to subordinate the proceedings of that international organ of justice to the Security Council.

Our delegation believes that the competencies of the Security Council and the ICC are well defined and must not give rise to false dilemmas with regard to steps to be taken against crimes already classified or with respect to the crime of aggression, which we shall define in the near future, because that crime must be repudiated and condemned in all its forms.

We would like to use this occasion to call on those States that have not yet done so to accede to the Rome Statute, on the premise that the Court should be established as the supreme authority to end impunity and to try the perpetrators of the most serious crimes that affect the international community as a whole, be it genocide, war crimes, crimes against humanitarian or acts of aggression.

The legal order is responsible for establishing and maintaining peace, an unconditional and absolute peace where each human being can exercise his or her freedom under the rule of law. A truly democratic State based on the rule of law is founded on truth, fairness and social justice.

In conclusion, we must point out that the search for truth is not in conflict with achieving justice. Truth is devalued when it is not associated with justice, and the application of justice without the understanding that truth imparts engenders the worst iniquities. In turn, peace and justice are inseparable. We cannot and must not sacrifice one for the other. Justice is crucial for the development of societies, including an international society.

Mr. Butagira (Uganda): My delegation is very pleased that Mr. d'Escoto Brockmann is chairing our meetings, and we pledge our full commitment to work with him and his Bureau.

We also take this opportunity to thank Judge Philippe Kirsch, President of the International Criminal Court, for the detailed and informative report (see A/63/323). We shall endeavour to elucidate some of the points raised in the report, placing special emphasis on those pertaining to Uganda.

We welcome the report, especially those parts that recognize the efforts made by the Government of Uganda to cooperate with the Court with a view to executing the arrest warrants. As recently as June 2008,

regional Governments met in Kampala and agreed on joint operations against the notorious Lord's Resistance Army. We call on those States that have the means to reinforce those efforts to end that affront to the resolve of the international community to bring to justice the perpetrators of the most serious crimes. One way would be to revise the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo, to make it robust so as to include the apprehension of the leadership of the Lord's Resistance Army. Unless the culprits are brought to justice, the Lord's Resistance Army will continue to cause mayhem in the region, as it is currently doing.

The Lord's Resistance Army is a cancer that needs to be eradicated urgently before it can spread any further. It is common knowledge that it started its heinous criminality in northern Uganda. Our forces fought it and flushed it out of Uganda. Uganda had warned right from the beginning that unless there was cooperation from the international community, the situation could turn into a regional disaster with far-reaching implications. Unfortunately that warning was not heeded. As we speak, the Lord's Resistance Army is abducting children in eastern Democratic Republic of the Congo, in the Sudan and in the Central African Republic, and it has reinforced its forces by the hundreds by adding the kidnapped children to their number. For the sake of those and other victims, we once again appeal for concrete action.

We fail to understand the reluctance of those with the means to assist in getting rid of this ugly spot from our midst. What started as a northern Uganda problem has slowly but predictably sucked in other surrounding States until it has gained the notoriety of a regional disaster.

Therefore, for the sake of the victims — the abducted children, those who have been forced into sex slavery — and for the sake of the hundreds of children who are forced to kill members of their families so as to initiate them into that heinous organization, we call for cooperation in ending this travesty. Without bringing the perpetrators of those crimes to justice, there will be no lasting peace in the region.

Uganda calls on the United Nations and the Member States to support the International Criminal Court so that its credibility might not be doubted. The Court must remain independent so that it is not viewed

with suspicion, as an institution designed to settle political scores.

We welcome the outreach programmes of the Court in Uganda because they enhance appreciation of the international criminal justice system, especially by the victims, who are the cardinal stakeholders. For its part, in order to reinforce this outreach effort, the Government of Uganda has offered to host the first review conference of the Rome Statute in 2010 to further enhance the visibility of the Court in the region. We welcome the support expressed for Uganda's offer to host the review conference.

Uganda will continue to cooperate with and support the International Criminal Court. This is evident in our effort to provide well-qualified personnel to the bench and other organs of the Court.

Uganda does not support impunity. We recognize that it is a cardinal objective of the Rome Statute to end impunity and to bring to justice the perpetrators of the most serious crimes. That is why Uganda was the first to make a referral to the Court in order to investigate the Lord's Resistance Army. Indeed, the Prosecutor's investigation and application resulted in indictments and arrest warrants, which, unfortunately,

have yet to be enforced. International cooperation is crucial in any effort to secure any arrests, particularly since the fugitives are outside the territory of Uganda.

The Acting President: We have heard the last speaker in the debate on this item. The General Assembly has thus concluded this stage of its consideration of agenda item 69.

Programme of work

The Acting President: I wish to inform members of a slight change in the programme of work for Monday morning, 3 November 2008. The Assembly will first take up, in a joint debate, agenda item 40, "Report of the Economic and Social Council", and agenda item 44, "Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields". The Assembly will then take up, as the second item, agenda item 114, "Cooperation between the United Nations and regional and other organizations", with its sub-items, followed by agenda item 59, "Holocaust remembrance", as the third item.

The meeting rose at 6.15 p.m.